Contents

Federal Register

Vol. 68, No. 24

Wednesday, February 5, 2003

Separate Parts In This Issue

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

Federal Register
Vol. 68, No. 24
Wednesday, February 5, 2003

Presidential Documents

Title 3—

The President

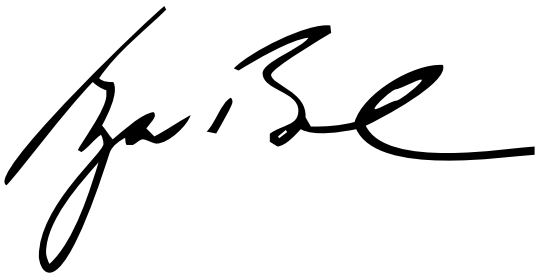
Presidential Determination No. 2003–13 of January 29, 2003

Presidential Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

Pursuant to section (2)(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(c)(1), I hereby determine that it is important to the national interest that up to $15 million be made available from the U.S. Emergency Refugee and Migration Assistance Fund to meet unexpected urgent refugee and migration needs that would be anticipated in the event of a future humanitarian emergency in the Middle East, to include contingency planning for such needs. Such an emergency may arise if it becomes necessary for the United States and other nations to use military force to disarm the Iraqi regime of its weapons of mass destruction. These funds may be used, as appropriate, to provide contributions to international, governmental, and nongovernmental organizations, as well as for administrative expenses to manage contingency planning by the Department of State's Bureau of Population, Refugees, and Migration.

You are authorized and directed to inform the appropriate committees of the Congress of this determination and the obligation of funds under this authority, and to arrange for the publication of this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, January 29, 2003.

[FR Doc. 03–2959
Filed 2–4–03; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Presidential Determination No. 2003–14 of January 30, 2003

Presidential Determination on Major Drug Transit or Major Illicit Drug Producing Countries for 2003

Memorandum for the Secretary of State

Pursuant to section 706(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228) (FRAA), which was enacted on September 30, 2002, I hereby identify the following countries as major drug transit or major illicit drug producing countries: Afghanistan, The Bahamas, Bolivia, Brazil, Burma, China, Colombia, Dominican Republic, Ecuador, Guatemala, Haiti, India, Jamaica, Laos, Mexico, Nigeria, Pakistan, Panama, Paraguay, Peru, Thailand, Venezuela, and Vietnam.

The Majors List applies by its terms to countries. The United States Government interprets the term broadly to include entities that exercise autonomy over actions or omissions that could lead to a decision to place them on the list and, subsequently, to determine their eligibility for certification. A country's presence on the Majors List is not necessarily an adverse reflection of its government's counternarcotics efforts or level of cooperation with the United States. Consistent with the statutory definition of a major drug transit or drug producing country set forth in section 481(e)(5) of the Foreign Assistance Act of 1961, as amended (FAA), one of the reasons that major drug transit or drug producing countries are placed on the list is the combination of geographical, commercial, and economic factors that allow drugs to transit or be produced despite the concerned government's most assiduous enforcement measures.

Pursuant to section 706(2)(A) of the FRAA, I hereby designate Burma, Guatemala, and Haiti as countries that have failed demonstrably during the previous 12 months to adhere to their obligations under international counternarcotics agreements and take the measures set forth in section 489(a)(1) of the FAA. Attached to this memorandum are justifications for each of the countries so designated, as required by section 706(2)(B).

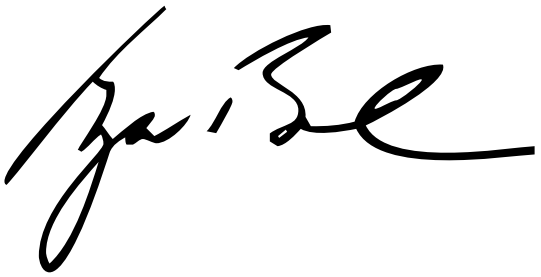
I have also determined, in accordance with provisions of section 706(3)(A) of the FRAA, that provision of United States assistance to Guatemala and Haiti in FY 2003 is vital to the national interests of the United States.

Additionally, the alarming increase in the quantity of illegal synthetic drugs entering the United States, especially ecstasy from Europe, is of particular concern. A significant amount of the ecstasy consumed in the United States is manufactured clandestinely in The Netherlands (in 2001, a total of 9.5 million ecstasy tablets were seized in the United States, and the Drug Enforcement Administration believes that the majority of tablets originated in The Netherlands). We are working closely with Dutch authorities to stop the production and export of ecstasy, which we both regard as a serious threat to our citizens. We expect Dutch authorities to move effectively and measurably in the coming year against the production and export of this drug, including dismantling labs and proceeding against trafficking organizations. Early in the year, we plan to discuss specific steps we can take together to reduce drug trafficking.

Although the United States enjoys an excellent level of bilateral cooperation with Canada, the United States Government is concerned that Canada is a primary source of pseudoephedrine and an increasing source of high potency marijuana, which are exported to the United States. Over the past

few years there has been an alarming increase in the amount of pseudoephedrine diverted from Canadian sources to clandestine drug laboratories in the United States, where it is used to make methamphetamine. The Government of Canada, for the most part, has not regulated the sale and distribution of precursor chemicals. The regulations to restrict the availability of pseudoephedrine, which the Government of Canada has just promulgated, should be stronger. Notwithstanding Canada's inadequate control of illicit diversion of precursor chemicals, I commend Canadian law enforcement agencies, which continue to work energetically to support our joint law enforcement efforts.

Under section 706 of the FRAA, you are hereby authorized and directed to submit this memorandum to the Congress, and to publish it in the **Federal Register**.



THE WHITE HOUSE,
Washington, January 30, 2003.

Billing code 4710–10–M

Statement of Explanation

Burma

The United States has determined that Burma failed demonstrably to make sufficient efforts during the last 12 months to meet its obligations under international counternarcotics agreements and the counternarcotics requirements set forth in section 489(a)(1) of the Foreign Assistance Act of 1961, as amended.

Burma remains the world's number one producer and trafficker of methamphetamine and the world's second largest producer and trafficker of heroin. Judging from the situation in neighboring countries, production and trafficking of methamphetamine from Burma continues to be one of the most serious problems facing Southeast Asia. Drug gangs operate freely within Burma along its borders with China and Thailand, producing several hundred million methamphetamine tablets annually by using precursors imported from neighboring states.

Although Burma banned the import, sale, and use of 25 precursor chemicals and related substances used in the production of methamphetamine in 2002, Burma has yet to take effective measures against methamphetamine production and trafficking or the importation of precursor chemicals from neighboring states used in the production of methamphetamine. Hundreds of millions of methamphetamine tablets flooded the region, and seizures of methamphetamine went down significantly in 2002 (about 9 million tablets compared to 32 million in 2001), representing only a tiny fraction of the estimated production. In addition, the government destroyed a smaller number of methamphetamine and heroin labs in 2002 compared to the previous year.

Burma has also yet to curb involvement in illicit narcotics by the largest, most powerful, and most important trafficking organization within its borders, the United Wa State Army (UWSA). Although the government claims it has increased pressure on the UWSA to end opium production, major UWSA traffickers continue to operate with apparent impunity and UWSA involvement in methamphetamine production and trafficking remains a serious concern.

While the United States gives Burma a failing grade due to the magnitude of the above issues, we do note some progress on several counternarcotics fronts. Although Burma remains the world's second largest producer of illicit opium, opium production in Burma declined 26 percent in the past year, seizures of heroin and opium increased, and the government has initiated several cases against accused money-launders under new anti-money laundering laws.

The Government of Burma (GOB) also continued to cooperate with regional and international counternarcotics agencies and organizations, resulting in several cases against traffickers and their organizations in cooperation with the United States, Australia, Thailand, China, and others. Increased cooperation with China, in particular, resulted in the rendering of several narcotraffickers to China in 2002.

We urge the GOB to redouble efforts in those areas where it is making progress and to address those major gaps where it has made no serious efforts to date.

Guatemala

Despite improvements towards the end of the year, Guatemala failed demonstrably during the last 12 months to make substantial efforts to adhere to its obligations under international counternarcotics agreements and to take the counternarcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961, as amended. Guatemala remains a major transshipment point for drugs, primarily cocaine, moving from South America

to the United States. However, the vital national interests of the United States require the United States to continue providing assistance to Guatemala under the Foreign Operations, Export Financing, and Related Programs Act, 2002 (P.L. 107–115).

During 2002, Guatemala's overall counterdrug commitment deteriorated. The Government of Guatemala's (GOG) counternarcotics efforts traditionally have been limited by a lack of resources for police, prosecutors, and judges. However, in 2002, a heightened level of corruption also impeded significant progress in the battle against narcotrafficking. Seizures of illegal narcotics and narcotics-related prosecutions in Guatemala were dramatically lower than in years past, despite evidence that the flow of illegal drugs had not diminished. Efforts to pass and implement anti-corruption and transparency legislation floundered. Few high-level figures were formally investigated or indicted, and the Anti-Narcotics Police was disbanded after several attempts at reform and the firing or reassignment of 75% of all personnel. The majority of Anti-Narcotics Prosecutors were also removed or transferred in the last year due to poor performance. During 2002, police stole an amount of drugs estimated at double the amount officially seized, and were identified as responsible for drug-related extra-judicial executions of both narcotraffickers and civilians.

Toward the end of 2002, at the request of the United States the GOG took some positive counternarcotics steps. The GOG promulgated regulations to implement the modern money laundering legislation passed in 2001 (though there have been no convictions to date). A number of police officers were arrested and others removed from office in connection with a gun battle over a drug shipment in the town of Chocon. The GOG recently began regularly destroying newly confiscated drugs not needed for evidence, and, in December, destroyed a modest amount of drugs stored from older cases.

Despite Guatemala's demonstrable failure on counternarcotics efforts, U.S. vital national interests require that U.S. assistance to Guatemala continue. Social and political problems underlying the country's 36-year civil conflict remain, and many Peace Accord commitments have not been met. There is a need for continued assistance to programs that diversify the rural economy, increase access to education and medical services, strengthen judicial and human rights institutions, foster the development of civil society, and address environmental concerns. These programs create an environment conducive to building democracy and reducing illegal migration. They also address social injustice, poverty, and distrust of civil authority in Guatemala, which are contributing factors behind Guatemalan involvement in the drug trade. The upcoming Central American Free Trade Agreement negotiations will also require significant U.S. involvement and assistance in projects linked to further economic liberalization. Additionally, suspension of assistance to Guatemala would result in the further deterioration of Guatemalan institutions essential to combating the ever-growing influence of organized crime in Guatemala.

Haiti

Haiti failed demonstrably during the last 12 months to make substantial efforts to adhere to its obligations under international counternarcotics agreements and take the counternarcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961, as amended. Haiti remains a significant transshipment point for drugs, primarily cocaine, moving through the Caribbean from South America to the United States. However, the vital national interests of the United States require the United States to continue to provide assistance to Haiti under the Foreign Operations, Export, Financing, and Related Programs Act, 2002 (P.L. 107–115) Haiti's overall counterdrug commitment has remained weak, in part due to political instability and low levels of assistance. Such instability, coupled with economic degradation, has led to an increase in criminal and political violence and compromised

internal security. Corruption is rife; including reported police involvement in kidnapping-for-ransom, car theft, and coercion of junior police officers either to assist in or to ignore drug trafficking activities. President Aristide has attempted to shore up his personal and political security by politicizing the Haitian National Police (HNP). This, in contravention to one of President Aristide's commitments to the United States Government, bodes ill for an effective counternarcotics effort.

With two exceptions (putting into force a 1997 U.S.-Haiti bilateral maritime counternarcotics interdiction agreement and establishing a Financial Intelligence Unit), the Government of Haiti (GOH) has taken no action on its own initiative in the past year either to cooperate with the United States to interdict the flow of drugs destined for the United States or to honor its commitments as a party to the 1988 U.N. Drug Convention.

Other than signing a bilateral counternarcotics Letter of Agreement, permitting the polygraph examination of 40 HNP anti-drug unit officers, and removing those with questionable results, Haiti failed to take significant counterdrug actions requested by the United States Government. In summary, the GOH did not:

1) Deposit an instrument of ratification of the OAS Inter-American Convention Against Corruption;

2) introduce anti-corruption legislation;

3) prosecute drug-related public (including police) corruption;

4) implement fully the anti-money laundering law passed in January 2001;

5) enforce existing anti-money laundering guidelines issued by the Central Bank;

6) require cross-border currency declarations and provide penalties for noncompliance;

7) increase the number of arrests of major traffickers;

8) establish a permanent BLTS (French acronym for the HNP anti-drug unit) office outside Port-au-Prince; or

9) provide training to judges, prosecutors, and law enforcement officials.

Despite Haiti's demonstrable failure on counternarcotics issues, U.S. vital national interests require that U.S. assistance to Haiti continue. Haiti is the hemisphere's poorest country. There is a continued need for assistance to programs that increase access to education, combat environmental degradation, fight the spread of HIV/AIDS, and foster the creation of legitimate business and employment opportunities. These programs can create an atmosphere conducive to building democracy and reducing illegal migration. They will also address root causes of poverty and hopelessness in Haiti, contributing factors behind Haitian involvement in the international drug trade. Suspension of assistance to Haiti would result in the further deterioration of Haitian institutions. Additionally, suspension would hamper U.S. efforts to ensure implementation of OAS Resolution 822, which commits Haiti to hold legislative elections in 2003.

[FR Doc. 03–2960
Filed 2–4–03; 8:45 am]
Billing code 4710–10–M

Rules and Regulations

Federal Register
Vol. 68, No. 24
Wednesday, February 5, 2003

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 01–118–2]

Karnal Bunt; Restrictions on the Use of Grain Originating in a Regulated Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the Karnal bunt regulations by prohibiting grain grown in a regulated area from being used as seed outside the regulated areas and by removing the requirement that wheat seed, durum wheat seed, and triticale seed that originates within a regulated area be treated with a fungicide before it may be planted within a regulated area. The interim rule was necessary to help to prevent the artificial spread of Karnal bunt to fields outside the regulated area and to remove a treatment requirement that we determined to be unnecessary.

EFFECTIVE DATE: The interim rule became effective on April 25, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Spaide, Director, Surveillance and Emergency Programs Planning and Coordination, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–7819.

SUPPLEMENTARY INFORMATION:

Background

Karnal bunt is a fungal disease of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Secale cereale*), a hybrid of wheat and rye. Karnal bunt is caused by the smut fungus *Tilletia indica* (Mitra) Mundkur and is spread by spores, primarily through the movement of infected seed. In the absence of measures taken by the U.S. Department of Agriculture (USDA) to prevent its spread, the establishment of Karnal bunt in the United States could have significant consequences with regard to the export of wheat to international markets.

The domestic quarantine and regulations regarding Karnal bunt are set forth in ''Subpart—Karnal Bunt'' (7 CFR 301.89–1 through 301.89–16, referred to below as the regulations). Among other things, the regulations define areas regulated for Karnal bunt and restrict the movement of regulated articles, including wheat seed and grain, from the regulated areas. Those movement restrictions are designed to prevent the artificial spread of Karnal bunt.

In an interim rule effective April 25, 2002, and published in the **Federal Register** on April 30, 2002 (67 FR 21159–21161, Docket No. 01–118–1), we amended the regulations by prohibiting grain grown in a regulated area from being used as seed outside the regulated areas and by removing the requirement that wheat seed, durum wheat seed, and triticale seed that originates within a regulated area be treated with a fungicide before it may be planted within a regulated area. The interim rule was necessary to prevent the artificial spread of Karnal bunt to fields outside the regulated area by prohibiting the use of potentially spore-positive grain as seed in those fields and to remove a treatment requirement that we determined to be unnecessary.

Comments on the interim rule were required to be received on or before July 1, 2002. We received three comments by that date. The comments were from a State agricultural agency and two industry organizations. All three commenters supported the interim rule. One commenter did, however, state that the regulations should provide growers and seed companies in nonregulated areas with the ability to voluntarily test their seed for Karnal bunt without the possibility of regulatory restrictions being imposed on their farms or businesses if the seed is found positive.

The regulations are intended to prevent the artificial spread of Karnal bunt into noninfected areas, so their focus is on the movement of regulated articles from and through regulated areas. The seed testing provisions of § 301.89–4 are limited to seed that originates within a regulated area; those provisions do not place any limitations or reporting requirements on the voluntary testing of seed by growers or seed companies located outside the regulated areas. It is not, therefore, necessary to amend the regulations to provide for the voluntary seed testing discussed by the commenter.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Order 12988, and the Paperwork Reduction Act.

Further, this action has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 67 FR 21159–21161 on April 30, 2002.

Authority: 7 U.S.C. 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, 7754, and 7760; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

Done in Washington, DC, this 30th day of January 2003.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–2684 Filed 2–4–03; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 02–114–1]

Imported Fire Ant; Additions to Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the imported fire ant regulations by designating as quarantined areas all or portions of six counties in South Carolina and nine counties in Tennessee. As a result of this action, the interstate movement of regulated articles from those areas will be restricted. This action is necessary to prevent the artificial spread of the imported fire ant to noninfested areas of the United States.

DATES: This interim rule was effective January 30, 2003. We will consider all comments that we receive on or before April 7, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02–114–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–114–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 02–114–1'' on the subject line.

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

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

FOR FURTHER INFORMATION CONTACT: Mr. Charles L. Brown, Imported Fire Ant Program Manager, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–8247.

SUPPLEMENTARY INFORMATION:

Background

The imported fire ant regulations (contained in 7 CFR 301.81 through 301.81–10 and referred to below as the regulations) quarantine infested States or infested areas within States and restrict the interstate movement of regulated articles to prevent the artificial spread of the imported fire ant.

The imported fire ant (*Solenopsis invicta* Buren and *Solenopsis richteri* Forel) is an aggressive, stinging insect that, in large numbers, can seriously injure and even kill livestock, pets, and humans. The imported fire ant, which is not native to the United States, feeds on crops and builds large, hard mounds that damage farm and field machinery. The regulations are intended to prevent the imported fire ant from spreading throughout its ecological range within the country.

The regulations in § 301.81–3 provide that the Administrator of the Animal and Plant Health Inspection Service (APHIS) will list as a quarantined area each State, or each portion of a State, that is infested with the imported fire ant. The Administrator will designate less than an entire State as a quarantined area only under the following conditions: (1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles listed in § 301.81–2 that are equivalent to the interstate movement restrictions imposed by the regulations; and (2) designating less than the entire State will prevent the spread of the imported fire ant. The Administrator may include uninfested acreage within a quarantined area due to its proximity to an infestation or its inseparability from an infested locality for quarantine purposes.

In § 301.81–3, paragraph (e) lists quarantined areas. We are amending § 301.81–3(e) by:

- Revising the boundaries of the quarantined areas in Cherokee, Greenville, and Spartanburg Counties, SC, and changing the status of Anderson, Oconee, and Pickens Counties, SC, from partially to completely infested.
- Revising the boundaries of the quarantined areas in Maury County, TN, changing the status of Decatur, Franklin, and Monroe Counties, TN, from partially to completely infested, and adding portions of Bedford, Blount, Coffee, Grundy, and Loudon Counties, TN, to the list of quarantined areas.

We are taking these actions because recent surveys conducted by APHIS and State and county agencies revealed that the imported fire ant has spread to these areas. See the rule portion of this document for specific descriptions of the new and revised quarantined areas.

Emergency Action

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

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

Executive Order 12866 and Regulatory Flexibility Act

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

This interim rule is necessary because infestations of imported fire ant have been discovered in additional areas of South Carolina and Tennessee. This action will establish quarantined areas in 5 new counties and revise the boundaries of the quarantined areas in 10 other counties in those States. As a result of this action, the interstate movement of regulated articles from those areas is restricted. This action is necessary to prevent the artificial spread of the imported fire ant into noninfested areas of the United States.

The following analysis addresses the economic effects of this rule and the impact on small entities as required by the Regulatory Flexibility Act.

The market value of the agricultural products sold in the 15 counties affected by this rule was more than $445 million, according to the 1997 Agricultural Census. This represents 12 percent of the combined total value of agricultural sales for both States.

Potential damage by imported fire ant presents a risk to the agricultural economies in these 15 counties. During 1997, the value of sales from nursery

and greenhouse crops in these 15 counties were at minimum $54 million. Those entities potentially affected by this action include nurseries, greenhouses, farm equipment dealers, construction companies, and those entities that sell, process, or move regulated articles interstate from and through quarantined areas. These economic entities are now required to treat and certify their regulated articles before moving them interstate.

According to the Small Business Administration (SBA) definition, a small agricultural producer is one having less than $750,000 in annual sales, and a small equipment dealer or a small agricultural service company is one generating less than $5 million in annual sales.

According to this definition, all of the estimated 433 potentially affected entities in the counties affected by this rule are considered small by SBA standards. However, both the number of affected entities and the scope of the economic effects resulting from this action are dependent on any given entity's proportion of sales outside the quarantined area.

The adverse economic effect on these entities can be substantially minimized by the availability of various treatment options that will allow for the movement of regulated articles from the quarantined area with only a small additional cost. The treatment cost for a standard shipment of nursery plants is estimated to be between $116 and $200, which represents, at most, 2 percent of the value of a standard tractor-trailer load of nursery plants ($10,000 to $250,000). The benefits of this action are substantial, both ensuring continued agricultural sales from the affected counties and preventing human-assisted spread of imported fire ant.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

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

Executive Order 12988

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

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

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

Authority: 7 U.S.C. 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, 7754, and 7760; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

2. In § 301.81–3, paragraph (e) is amended as follows:

a. Under the heading South Carolina, by revising the entries for Anderson, Cherokee, Greenville, Oconee, Pickens, and Spartanburg Counties.

b. Under the heading Tennessee, by adding, in alphabetical order, new entries for Bedford, Blount, Coffee, Grundy, and Loudon Counties and by revising the entries for Decatur, Franklin, Maury, and Monroe Counties.

§ 301.81–3 Quarantined areas.

* * * * *

(e) * * *

South Carolina

* * * * *

Anderson County. The entire county.

* * * * *

Cherokee County. That portion of the county bordered by a line beginning at the intersection of the Spartanburg/Cherokee County line and State Secondary Highway 36; then northeast on State Secondary Highway 36 to the South Carolina/North Carolina State line; then east along the State line to the Cherokee/York County line; then south along the Cherokee/York County line to the Cherokee/Union County line; then northwest on the Cherokee/Union County line to the point of beginning.

* * * * *

Greenville County. That portion of the county bordered by a line beginning at the intersection of the Greenville/Spartanburg County line and State Secondary Highway 277; then northwest on State Secondary Highway 277 to State Secondary Highway 560; then east on State Highway 11 to the unpaved county road—then north on the unpaved county road to secondary system road—unpaved 118; then northeast on secondary system road-unpaved 118 to the South Carolina/North Carolina State line; then west along the South Carolina/North Carolina State line to the Greenville/Pickens County line; then south along the Greenville/Pickens County line to the Greenville/Laurens County line; then northeast along the Greenville/Laurens County line to the point of beginning.

* * * * *

Oconee County. The entire county.

* * * * *

Pickens County. The entire county.

* * * * *

Spartanburg County. That portion of the county bordered by a line beginning at the intersection of the Spartanburg/Greenville County line and State Secondary Highway 75; then northeast on State Secondary Highway 75 to State Secondary Highway 127 in the town of Gramling; then northeast on State Secondary Highway 127 to State Secondary Highway 37; then north on State Secondary Highway 37 to State Highway 11; then east on State Highway 11 to State Secondary Highway 943; then east on paved county road to State Secondary Highway 42; then southeast on State Secondary Highway 42 to State Secondary Highway 132; then northeast on State Secondary Highway 132 to State Secondary Highway 58; then south on State Secondary Highway 58 to State Secondary Highway 187; then east on State Highway 11 to the Spartanburg/Cherokee County line; then south along the Spartanburg/Cherokee County line to the Spartanburg/Laurens County line; then north along the Spartanburg/Laurens County line to the point of beginning.

* * * * *

Tennessee

Bedford County. That portion of the county lying south of a line beginning at the intersection of the Marshall/Bedford County line and Bills Road; then east on Bills Road to Falcon Road; then north on Falcon Road to Bethlehem Church Road; then east on Bethlehem Church Road to Uselton Road; then east on Uselton Road to Dixon Road; then southeast on Dixon Road to Tennessee Highway 130; then northeast on

Tennessee Highway 130 to Snell Road; then southeast on Snell Road to U.S. Highway 231; then south on U.S. Highway 231 to the Lincoln/Moore/Bedford County line.

Blount County. That portion of the county lying south of a line beginning at the intersection of the Loudon/Blount County line and U.S. Highway 321; then east on U.S. Highway 321 to Marble Hill Road; then southeast on Marble Hill Road to Gulf Hollow Road; then south on Gulf Hollow Road to Kirk Road; then east on Kirk Road to Meadow Road; then northeast on Meadow Road to Lambert Road; then southeast on Lambert Road to Salem Road; then south on Salem Road to Morgantown Road; then northeast on Morgantown Road to Springview Road; then southeast on Springview Road to Old Niles Ferry Road; then southwest on Old Niles Ferry Road to Gillen Water Road; then southeast on Gillen Water Road to U.S. Highway 129; then south on U.S. Highway 129 to Baumgardner Road; then east on Baumgardner Road to Mint Road; then northeast on Mint Road to Knob Road; then southeast on Knob Road to Sixmile Road; then south along an imaginary line to U.S. Highway 129; then southeast on U.S. Highway 129 to the Tennessee/North Carolina State line.

* * * * *

Coffee County. That portion of the county lying south of a line beginning at the intersection of the Bedford/Coffee County line and the line of latitude 35° 25′ North; then east on the line of latitude 35° 25′ North to Arnold Center Road; then south on Arnold Center Road to Miller Crossroad Road; then southeast on Miller Crossroad Road to Prairie Plains Road; then north on Prairie Plains Road to Lonnie Bush Road; then northeast on Lonnie Bush Road to U.S. Highway 41; then southeast on U.S. Highway 41 to the Coffee/Grundy County line; also the entire city limits of Tullahoma, TN.

Decatur County. The entire county.

* * * * *

Franklin County. The entire county.

* * * * *

Grundy County. That portion of the county lying south of a line beginning at the intersection of the Coffee/Grundy County line and U.S. Highway 41; then southeast on U.S. Highway 41 to Tennessee Highway 50; then east on Tennessee Highway 50 to Homer White Road; then north on Homer White Road to Tennessee Highway 50; then northeast on Tennessee Highway 50 to Tennessee Highway 108; then east on Tennessee Highway 108 to Tennessee Highway 399; then northeast on Tennessee Highway 399 to Bryant Road; then southeast on Bryant Road to the Grundy/Sequatchie County line.

* * * * *

Loudon County. That portion of the county lying south of a line beginning at the intersection of the Roane/Loudon County line and the Tennessee River; then east along the Tennessee River to the Fort Loudon Dam (U.S. Highway 321); then northwest on U.S. Highway 321 to Martel Road; then northeast on Martel Road to the Loudon/Knox County line.

* * * * *

Maury County. That portion of the county lying south of a line beginning at the intersection of the Lewis/Maury County line and U.S. Highway 412; then east on U.S. Highway 412 to Cecil Farm Road; then east on Cecil Farm Road to South Cross Bridges Road; then south on South Cross Bridges Road to Mt. Pleasant Road; then south on Mt. Pleasant Road to Tennessee Highway 166; then southeast on Tennessee Highway 166 to Tennessee Highway 243; then south on Tennessee Highway 243 to Dry Creek Road; then south on Dry Creek Road to the Maury/Lawrence County Line.

* * * * *

Monroe County. The entire county.

* * * * *

Done in Washington, DC, this 30th day of January 2003.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–2685 Filed 2–4–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 318

[Docket No. 00–052–2]

Fruits and Vegetables From Hawaii

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations to allow bell peppers, eggplant, mangoes, pineapple (other than smooth Cayenne), Italian squash, and tomatoes to be moved interstate from Hawaii if the fruits and vegetables undergo irradiation treatment at an approved facility. Treatment may be conducted either in Hawaii or in areas of the mainland United States where tropical fruit flies are not likely to become established. The fruits and vegetables will also have to meet certain additional requirements, including packaging requirements. This action relieves restrictions on the movement of these fruits and vegetables from Hawaii while continuing to provide protection against the spread of plant pests from Hawaii to other parts of the United States.

EFFECTIVE DATE: February 5, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Hesham A. Abuelnaga, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–5334.

SUPPLEMENTARY INFORMATION:

Background

The Hawaiian Fruits and Vegetables regulations, contained in 7 CFR 318.13 through 318.13–17 (referred to below as the regulations), govern, among other things, the interstate movement of fruits and vegetables from Hawaii. Regulation is necessary to prevent the spread of dangerous plant diseases and pests that occur in Hawaii.

The regulations in § 318.13–4f allow abiu, atemoya, carambola, litchi, longan, papaya, rambutan, and sapodilla to be moved interstate from Hawaii if, among other things, the fruits and vegetables undergo irradiation treatment in accordance with that section.

On May 22, 2002, we published in the **Federal Register** (67 FR 35932–35936, Docket No. 00–052–1) a proposal to amend the regulations to allow bell peppers, eggplant, mangoes, pineapple (other than smooth Cayenne), Italian squash, and tomatoes to be moved interstate from Hawaii if treated with irradiation in accordance with the requirements in § 318.13–4f. The proposal was prompted by research by the Department's Agricultural Research Service (ARS) that showed that this irradiation treatment could eliminate infestations of fruit flies and other pests in those commodities. In that same document, we also proposed to amend the irradiation regulations to require cartons of fruits and vegetables that are being moved interstate in accordance with the regulations to be marked with irradiation indicators.

We solicited comments concerning our proposal for 60 days ending July 22, 2002. We received six comments by that date. The comments were from researchers, a manufacturer of irradiation equipment, and representatives of a State government. The commenters generally supported the proposal. However, four commenters expressed concern over the proposed requirement for the use of

irradiation indicators. Also, another commenter raised concerns about including mangoes on the list of fruits approved for movement from Hawaii if treated with irradiation. These comments are discussed below by topic.

Irradiation Indicators

We proposed to amend the irradiation provisions in § 318.13–4f to require cartons of fruits and vegetables being moved interstate in accordance with the regulations to be marked with irradiation indicators. Specifically, we had proposed to add a new § 318.13–4f(b)(7) to read as follows: ''*Indicators.* Each carton of fruits and vegetables must bear an indicator device, securely attached prior to irradiation, that changes color or provides another clear visual change when it is exposed to radiation in the dose range required by this section for the pests for which the articles are being treated.'' Four commenters opposed this proposed requirement for numerous technical, operational, and cost-benefit reasons.

One commenter referred to several studies that deal with the limitations of available radiation-sensitive indicators.[1] Specifically, the commenter stated that dose fluctuations resulting from density variations caused by the arrangement, size, and weight of individual fruit within the subunits of a pallet would make irradiation indicators impractical and unreliable.

Another commenter stated that the indicators that are currently available have not undergone adequate testing and standard development, and, therefore, their reliability is questionable. In addition, the commenter suggested that the added labor costs for the additional handling must be taken into account, offsetting the low cost of the production of the indicators themselves.

One comment, which was reviewed and submitted by several researchers, offered detailed discussion of several issues related to the use of irradiation indicators. The comment referred to American Society for Testing and Materials (ASTM) Standard E 1539–98, ''Standard Guide for the Use of Radiation-Sensitive Indicators.'' Section 7.3 of that document states: ''Some irradiation or storage conditions may result in false positive or negative observations. For these reasons, indicators should not be used as a criterion for product release. Also, external environmental influences may make the interpretation of the indicators meaningless outside the irradiation facility unless appropriate controls are used.'' The commenter indicated that, for several technical reasons, irradiation indicators can only be used effectively to show that products have been exposed to ''some'' radiation, and not to show the exact dose of radiation that a product has received.

We have carefully analyzed all the data and opinions submitted recommending against the proposed indicator requirement and have decided to omit that requirement from this final rule. While we believe that an indicator could be employed as a useful ''cross check'' when Animal and Plant Health Inspection Service (APHIS) inspectors are correlating the required interstate movement certificates with the cartons referred to in those documents to offer additional protection against the introduction of plant pests into the mainland United States from Hawaii, apparently there is no such indicator that is: (1) Currently available at low cost; (2) validated to be sensitive and reliable in the appropriate dose ranges; and (3) validated to be resistant to false positives and false negatives caused by environmental effects. Therefore, we have omitted proposed § 318.13–4f(b)(7) from this final rule.

Dosage Recommendations

One commenter noted that there are only two studies to date that examine the relationship between radiation dose and fertility in the adult mango seed weevil (*Sternochetus mangiferae* (Fabricus), formerly known as *Cryptorhynchus mangiferae*). The commenter stated that these studies do not provide adequate support for the proposed dose of 100 Gy (10 krad), which was recommended by ARS research findings as a sufficient quarantine treatment for mango seed weevil. The commenter suggested that, based on the limited amount of research that has been done, Hawaiian mangoes should be subjected to higher doses of radiation than 100 Gy (10 krad). We had proposed a minimum ionizing irradiation dose of 250 Gy (25 krad) for mangoes, which we indicated would be effective in eliminating both fruit flies and the mango seed weevil.

We have carefully analyzed the data and conducted a review of the available literature on this topic and have determined that a higher dose of irradiation for mango seed weevil is appropriate. Based on research by ARS (Follett, 1999) and by the International Consultative Group on Food Irradiation of the Food and Agriculture Organization of the United Nations,[2] we are setting an irradiation dose level of 300 Gy (30 krad) for mango seed weevil in this final rule. We believe that there is enough research and evidence to support this dose level as an effective quarantine treatment for mango seed weevil.

The same commenter also stated that a dose of 250 Gy is excessive for fruit flies. He indicated that ''recent research and analyses have demonstrated that studies finding that doses >150 Gy were needed most likely are in error,'' but did not identify specific studies or analyses. He asked when APHIS would consider lower doses.

The research supporting this comment may have merit, but such research must be carefully evaluated and verified before we lower doses below the proposed level, which we know is effective. APHIS, in cooperation with ARS and others, will evaluate the lower doses recommended by this commenter. If we determine that lower doses are effective for fruit flies, we will initiate rulemaking in the future to reduce the doses. However, this evaluation process will take time, so in this final rule we are utilizing the dose of 250 Gy for fruit flies so that irradiation treatments may occur while this evaluation is underway.

The same commenter also stated that there should be a range of time given for irradiation treatment the way that a time range is given for vapor heat treatment in the comparison table (*see* Table 3) in the proposed rule. The commenter also asked if the comparison table compared values for the same amount of fruit in both treatments.

The comparison table was offered in the proposed rule's economic analysis to illustrate the relative cost and time-saving benefits of irradiation treatments when compared to the presently available vapor heat treatment, not to set specific values for the two treatments. Although the same amount of fruit was used in both treatments, it was not possible to give a time range for irradiation treatment comparable to the time range given for the heat vapor treatment because of the number of

[1] Ehlermann, D.A.E. (Federal Research Centre for Nutrition, Karlsruhe (Germany). Inst. of Process Engineering), ''Validation of a label dosimeter for food irradiation applications by subjective and objective means,'' Appl. Radiat. Isot.; v. 48(9), p. 1197–1201; 1997.

International Atomic Energy Agency, ''Standardized methods to verify absorbed dose in irradiated food for insect control,'' IAEA, Vienna, 2001, IAEA–TECDOC–1201.

Razem, D. (Ruder Boskovic Inst., Zagreb (Croatia)), ''Dosimetric performance of and environmental effects on sterin irradiation indicator labels,'' Radiat. Phys. Chem.; v.49(4), p. 491–495.

[2] ''Irradiation as a Quarantine Treatment of Fresh Fruits and Vegetables,'' ICGFI, 1991. This publication also cited two other studies, (Heather and Corcoran, 1990) and (Jessup and Rigney, 1990), that supported an irradiation dose level of 300 Gy (30 krad) for mango seed weevil.

variables involved in the irradiation process. The irradiation exposure times that are necessary to ensure that the specified dose has been delivered and absorbed vary widely by commodity and by equipment, which is available from several different manufacturers of irradiation equipment. The Plant Protection and Quarantine Treatment Manual, which is incorporated by reference in 7 CFR § 300.1, states that irradiation facilities must use ASTM Standard E 1261, ''Guide for Selection and Calibration of Dosimetry Systems for Radiation'' (or an equivalent international standard) as a guide for selection and calibration of an appropriate dosimetry system that matches the dosimeter requirements specific to their needs, and that irradiation exposure times must be evaluated for each commodity. The necessary dosage levels vary from 150 Gy (15 krad) to 300 Gy (30 krad) based on commodity, and each piece of equipment varies in the amount of time it takes to ensure that these dosage levels have been delivered and absorbed. Any time range given would not be able to take into account all of these possibilities and would therefore be inaccurate. We are not making any changes to the rule based on this comment.

Miscellaneous

The regulations in § 318.13–4f currently specify 250 Gy (25 krad) as the minimum absorbed dose for all treated commodities. Because, as noted above, we are setting the minimum absorbed dose for mangoes at 300 Gy (30 krad), we have amended several paragraphs in § 318.13–4f so that they refer to ''the specified dose'' rather than to 250 Gy (25 krad).

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**.

This rule relieves restrictions on the interstate movement of bell peppers, eggplant, mangoes, pineapple (other than smooth Cayenne), Italian squash, and tomatoes from Hawaii to the mainland United States. Making this rule effective immediately will allow interested producers, as well as manufacturers of the irradiation equipment that will be used to treat these articles, to benefit from trade as soon as possible. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We are amending the Hawaiian Fruits and Vegetables regulations to allow bell peppers, eggplant, mangoes, pineapple (other than smooth Cayenne), Italian squash, and tomatoes to be moved interstate from Hawaii if they are treated with irradiation in accordance with the regulations in § 318.13–4f. Irradiation at certain dosages eliminates infestations of pests in fruits and vegetables. Irradiation also eliminates bacterial or fungal growth that can otherwise cause accelerated spoilage and result in illness. Bacterial contamination can come from soil, insects, bird or rodent droppings, or the water used in processing.

Effects on Producers and Shippers of Fruits and Vegetables

Since 1995, the amount of land used for commercial production of mangoes in Hawaii has nearly tripled, and more than 7,500 new mango trees have been planted. However, producers in Hawaii have not been able to ship mangoes to the mainland United States due to the presence of the mango seed weevil in Hawaii (the mango seed weevil is not present in the mainland United States).[3] The irradiation treatment in this final rule provides an effective quarantine treatment for the mango seed weevil that will protect against the introduction and dissemination of this pest into the mainland United States from Hawaii. This final rule opens the mainland U.S. mango market to Hawaiian mangoes.

U.S. production of mangoes has primarily been in southern Florida, with a smaller quantity grown in Hawaii and a negligible amount produced in California. According to the 1997 Census of Agriculture, there were 218 mango farms in Florida, 171 in Hawaii, and 2 in California. The total domestic harvest that year was about 2,829 metric tons, of which about 97 percent was produced in Florida and about 3 percent (approximately 85 metric tons) produced in Hawaii. According to National Agricultural Statistics Service data, Hawaii produced approximately 72 metric tons of mangoes in 1999. It is unlikely that this final rule will result in a significant amount of mangoes being moved from Hawaii to the mainland United States because it is expected that nearly all mangoes produced in Hawaii will continue to be consumed within the State. Further, given that the United States imported 219,000 metric tons of mangoes between September 1998 and August 1999, any movements of Hawaii-grown mangoes to the mainland United States will be insignificant in contrast to the volume of annual imports.

Bell peppers, eggplant, pineapple (other than smooth Cayenne), Italian squash, and tomatoes are currently allowed to move interstate from Hawaii if they are first treated for Mediterranean fruit fly, oriental fruit fly, and melon fly with vapor heat in accordance with § 318.13–4b. Tomatoes may also be moved interstate from Hawaii if they are treated with methyl bromide in accordance with § 318.13–4c. This rule provides for an alternative means of treating bell peppers, eggplant, pineapple (other than smooth Cayenne), Italian squash, and tomatoes from Hawaii for fruit flies and other pests.

Since 1995, Hawaii's production of bell peppers, eggplant, Italian squash, and tomatoes has increased in value and volume (*see* tables 1 and 2). Hawaii's production of pineapples (other than smooth Cayenne) has decreased by 4 percent, but its value has increased by 6 percent.

[3] The mango seed weevil attacks mango seeds, but rarely the fruit, and may cause slight fruit drop in production areas. The mango seed weevil poses no threat to other crops or flora. It is strictly monophagous.

TABLE 1.—PRODUCTION OF SELECTED VEGETABLES IN HAWAII

	Year			
	1995	1996	1997	1998
Bell Peppers				
Volume (fresh weight in lbs.)	2,400,000	2,600,000	2,000,000	3,000,000
Value	$1,392,000	$1,248,000	$980,000	$1,500,000
Eggplant				
Volume (fresh weight in lbs.)	1,200,000	1,300,000	1,500,000	1,300,000
Value	$984,000	$949,000	$1,185,000	$1,053,000
Pineapples (other than smooth Cayenne)				
Volume (fresh weight in lbs.)	760,594,590	765,003,834	714,297,528	731,934,504
Value	$87,360,000	$95,914,000	$91,721,000	$92,776,000
Italian Squash				
Volume (fresh weight in lbs.)	620,000	700,000	1,400,000	1,500,000
Value	$316,000	$336,000	$700,000	$735,000
Tomatoes				
Volume (fresh weight in lbs.)	6,000,000	7,000,000	10,200,000	10,200,000
Value	$2,910,000	$3,710,000	$5,508,000	$5,610,000

TABLE 2.—CHANGE IN PRODUCTION OF SELECTED VEGETABLES IN HAWAII BETWEEN 1995 AND 1998

	Volume (percent)	Value (percent)
Bell peppers	−4	+6
Eggplant	+70	+93
Pineapples (other than smooth Cayenne)	+25	+8
Italian squash	+8	+7
Tomatoes	+142	+96

According to the Hawaii Agricultural Census, there were 27 farms growing pineapples for commercial sale in 1997. Twenty-two (or 82 percent) of those farms harvested between 1 and 14 acres of pineapple. During the same year, 74 farms produced tomatoes for commercial sale (a total of 388 acres harvested). There are no official data with respect to the number of farms in Hawaii producing bell peppers, eggplant, and Italian squash during the same year. However, considering that in 1997 there were 657 farms in Hawaii that harvested fruits and vegetables for sale (90 percent of which had less than 14 acres of crops planted), we believe that the majority of farms producing bell peppers, eggplant, and Italian squash for sale were small according to Small Business Administration (SBA) criteria. It is also likely that the majority of firms shipping bell peppers, eggplant, and Italian squash interstate from Hawaii are small according to SBA criteria.

Regardless of their size, Hawaii's fruit and vegetable producers and shippers who move fruits and vegetables interstate from Hawaii will benefit from the availability of an additional treatment alternative, especially since this treatment is less time-consuming than the presently available vapor heat treatment (*see* Table 3).

TABLE 3.—COMPARISON OF IRRADIATION AND VAPOR HEAT TREATMENTS

	Irradiation	Vapor heat
Cost	$0.22 to $0.33/kg (treatment cost)	$0.20 to $0.50/kg
Treatment Time	40 minutes	1.5 to 7 hours

Effects on Treatment Facilities

The irradiation treatments for bell peppers, eggplants, mangoes, pineapples (other than smooth Cayenne), Italian squash, and tomatoes will take place mostly at a new facility that was recently built in Hawaii. However, it is possible that some of these fruits and vegetables could be shipped to the mainland United States and treated with irradiation at facilities in Illinois or New Jersey. At present, various other tropical fruits, such as papaya, litchi, rambutan, carambola, and atemoya are shipped from Hawaii to a facility in Illinois for cobalt irradiation treatment.

On August 1, 2000, a new x-ray irradiation facility in Hawaii began treating papayas, which, after their x-ray treatment, are commercially shipped to the mainland United States. This facility treats between 500 to 1,000 boxes of papayas per day, 4 days per week.

This facility will be the primary irradiation facility to treat Hawaii-grown

bell peppers, eggplants, mangoes, pineapples (other than smooth Cayenne), Italian squash, and tomatoes before they are moved interstate. However, if there is not enough capacity at the Hawaiian plant for the fruits to be irradiated, the fruits can be sent for treatment to any of the three irradiation treatment facilities on the mainland United States.

According to SBA criteria, the facility in Hawaii mentioned in the previous paragraphs is a small entity (*i.e.*, an entity with annual sales of less than $5 million). Another firm that provides irradiation treatments for fruits and vegetables owns two irradiation facilities in Illinois and one facility in New Jersey. This other firm, which primarily provides irradiation treatment to sanitize medical devices, is not a small entity according to SBA criteria.

This final rule benefits the Hawaiian treatment facility, and may benefit the mainland facilities if the Hawaiian facility cannot keep up with demand for treatment of fruits and vegetables moving interstate from Hawaii. The final rule could also potentially benefit U.S. mainland consumers by increasing the mainland's supply of those fruits and vegetables that will now be eligible for interstate movement with irradiation treatment.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

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

Executive Order 12988

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

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0198. Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS'' Information Collection Coordinator, at (301) 734–7477.

List of Subjects in 7 CFR Part 318

Cotton, Cottonseeds, Fruits, Guam, Hawaii, Plant diseases and pests, Puerto Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

Accordingly, we are amending 7 CFR part 318 as follows:

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

1. The authority citation for part 318 continues to read as follows:

Authority: 7 U.S.C. 7711, 7712, 7714, 7731, 7754, and 7756; 7 CFR 2.22, 2.80, and 371.3.

2. Section 318.13–4f is amended as follows:

a. By revising paragraphs (a), (b)(2)(i), (b)(5), and (b)(6)(ii) to read as set forth below.

b. By adding, at the end of the section, the following: ''(Approved by the Office of Management and Budget under control number 0579–0198)''.

§ 318.13–4f Administrative instructions prescribing methods for irradiation treatment of certain fruits and vegetables from Hawaii.

(a) *Approved irradiation treatment.* Irradiation, carried out in accordance with the provisions of this section, is approved as a treatment for the following fruits and vegetables at the specified dose levels:

IRRADIATION FOR FRUIT FLIES AND SEED WEEVILS IN HAWAIIAN FRUITS AND VEGETABLES

Fruit	Dose (gray)
Abiu	250
Atemoya	250
Bell pepper	250
Carambola	250
Eggplant	250
Litchi	250
Longan	250
Mango	300
Papaya	250
Pineapple (other than smooth Cayenne)	250
Rambutan	250
Sapodilla	250
Italian squash	250
Tomato	250

* * * * *

(b) * * *

(2) * * *

(i) Be capable of administering the minimum absorbed ionizing radiation doses specified in paragraph (a) of this section to the fruits and vegetables; [2]

* * * * *

(5) *Dosage.* The fruits and vegetables must receive the minimum absorbed ionizing radiation dose specified in paragraph (a) of this section.[5]

(6) * * *

(ii) Absorbed dose must be measured using a dosimeter that can accurately measure the absorbed doses specified in paragraph (a) of this section.

* * * * *

Done in Washington, DC this 30th day of January 2003.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–2681 Filed 2–4–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 318

[Docket No. 01–042–2]

Interstate Movement of Gardenia From Hawaii

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the Hawaiian fruits and vegetables regulations to provide for the movement of cut blooms of gardenia from Hawaii. We have determined that specific growing and inspection protocols can effectively mitigate the plant pest risks associated with gardenia grown in Hawaii. This action provides for the interstate movement of gardenia from

[2] The maximum absorbed ionizing radiation dose and the irradiation of food is regulated by the Food and Drug Administration under 21 CFR part 179.

[5] *See* footnote 2.

Hawaii while continuing to prevent the spread of plant pests within the United States.

EFFECTIVE DATE: March 7, 2003.

FOR FURTHER INFORMATION CONTACT: Hesham A. Abuelnaga, Import/Export Specialist, Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–5334.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart—Hawaiian Fruits and Vegetables'' (7 CFR 318.13 through 318.13–17, referred to below as the regulations) govern, among other things, the interstate movement of fruits, vegetables, and other products, including cut flowers, from Hawaii. Regulation is necessary to prevent the spread of plant pests that exist in Hawaii.

The regulations in § 318.13–3(b)(1) provide that cut flowers (except cut blooms of gardenia, mauna loa, and jade vine, and leis thereof) may be moved interstate under certain conditions and if accompanied by a limited permit. The movement of cut blooms of gardenia has been prohibited due to gardenia's status as a host of green scale (*Coccus viridus*), also known as green coffee scale.

On May 15, 2002, we published in the **Federal Register** (67 FR 34626–34630, Docket No. 01–042–1) a proposal to amend the regulations to provide for the interstate movement of gardenia from Hawaii. As described in the proposed rule, cut blooms of gardenia from Hawaii would be eligible for movement to other parts of the United States if they were treated with irradiation in Hawaii or grown in accordance with certain prescribed conditions.

We solicited comments concerning our proposal for 60 days ending July 15, 2002. We received a total of four comments by that date. They were from growers, researchers, and private citizens. Three commenters strongly supported the proposal, agreeing that specific growing and inspection protocols or irradiation treatment will effectively mitigate the plant pest risks associated with green scale and facilitate interstate movement of gardenia blooms from Hawaii.

The remaining commenter stated that existing data concerning irradiation dosage rates for the treatment of gardenias for green scale are insufficient to support the effectiveness of the treatment described in the proposed rule. As a result of that comment, we reevaluated the proposed irradiation treatment option and found that the recommended 250 gray dosage likely is insufficient, since the data indicate that complete mortality of all green scales on gardenia treated at the proposed 250 gray dosage only occurs after 20 weeks. A higher dosage would be preferable, but testing has demonstrated that gardenias do not tolerate such a dose without unacceptable decline in quality. Consequently, we have concluded that the irradiation treatment described in the proposed rule would be an unacceptable treatment for quarantine purposes. Based on that conclusion, we have omitted treatment with irradiation from this final rule as an option for qualifying cut blooms of gardenia for interstate movement from Hawaii. We will continue to examine the irradiation treatment option and, if appropriate, amend the provisions for interstate movement of gardenias in the future.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In this document, we are amending the regulations to provide for the movement of cut blooms of gardenia from Hawaii. We have determined that specific growing and inspection protocols can effectively mitigate the plant pest risks associated with gardenia grown in Hawaii. This action provides for the interstate movement of gardenias from Hawaii while continuing to prevent the spread of plant pests within the United States.

Under this rule, gardenia growers in Hawaii who wish to move cut blooms of gardenia interstate from Hawaii would be able to do so if the gardenias were produced in a growing area determined by an inspector to be free of green scale and to meet other requirements and if the cut blooms were inspected and found free of green scale prior to interstate movement.

According to the USDA's Pacific Basin Agricultural Research Center in Hawaii, the total planted area of gardenias in Hawaii is 26.6 acres. Of the 26.6 acres of gardenias, only 3.6 acres belong to commercial farms: 2 acres in Kona, on the island of Hawaii; 1.1 acres in the Manoa Valley (Oahu); and 0.5 acres in Waipahu (Oahu). The remaining 23 acres of planted gardenias in Hawaii are owned by approximately 100 growers, each having an average of 20 to 25 bushes or about 10,000 square feet of production area. These gardenias are grown in ''backyard'' type production conditions.

The largest commercial gardenia production area in Hawaii consists of 2 acres of planted gardenia bushes that produce about 69,200 flowers per year, with annual gross receipts from sales of just under $13,000. While sales figures are not available for the two smaller commercial producers, we presume that their annual sales are less than those of the largest producer.

According to Small Business Administration size standards, an entity involved in floriculture production (NAICS code 111422) is considered a small entity if it has annual sales of less than $750,000. Under this definition, all commercial gardenia growers in Hawaii would be considered small entities.

Impact on Small Entities

Under the Regulatory Flexibility Act, agencies are required to specifically consider the economic effects of their rules on small entities. The entities most likely to be affected by this rule are the commercial producers of gardenias discussed previously in this analysis; the producers are all considered to be small entities.

We expect that commercial gardenia producers will benefit from the ability to move their products interstate to markets in the continental United States while incurring the costs associated with establishing and maintaining a green-scale-free growing area. While we cannot estimate the amount of additional sales that might be enjoyed by commercial gardenia producers as a result of this rule, we do not expect that amount will be substantial, given the limited scale of commercial gardenia production in Hawaii. The costs associated with the production area requirements are likely to be negligible and limited to the maintenance of a 20-foot-host-plant-free buffer zone around the production area, as the required inspections will be provided free of charge.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

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

Executive Order 12988

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

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0197.

Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

List of Subjects in 7 CFR Part 318

Cotton, Cottonseeds, Fruits, Guam, Hawaii, Plant diseases and pests, Puerto Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

Accordingly, we are amending 7 CFR part 318 as follows:

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

1. The authority citation for part 318 continues to read as follows:

Authority: 7 U.S.C. 7711, 7712, 7714, 7731, 7754, and 7756; 7 CFR 2.22, 2.80, and 371.3.

Subpart—Hawaiian Fruits, Vegetables, and Flowers

2. The heading for the subpart is revised to read as set forth above.

§ 318.13–1 [Amended]

3. In § 318.13–1, in the definition of *fruits and vegetables,* the word ''mellons'' is corrected to read ''melons''.

§ 318.13–2 [Amended]

4. In § 318.13–2, paragraph (b) is amended as follows:

a. In the introductory text, by removing the words ''fruits and vegetables'' and adding the word ''articles'' in their place.

b. In the list of regulated articles, by adding, in alphabetical order, an entry for ''Gardenia (cut blooms)''.

c. At the end of the section, in the sentence following the list, by removing the words ''and vegetables'' and adding the words '', vegetables, or other products'' in their place and by removing the words ''fruits or vegetables'' and adding the words ''articles'' in their place.

§ 318.13–3 [Amended]

5. In § 318.13–3, paragraph (b)(1) is amended by removing the words ''gardenia, mauna loa,'' and adding the words ''mauna loa'' in their place and by adding the words '', and except any cut blooms of gardenia not grown in accordance with § 318.13–4j'' after the word ''thereof''.

§ 318.13–4 [Amended]

6. Section 318.13–4 is amended as follows:

a. In paragraph (a), by removing the words ''Fruits and vegetables'' and adding the words ''Regulated articles'' in their place.

b. In paragraph (c)(2), by removing the words ''fruits and vegetables'' and adding the words ''fruits, vegetables, or other products'' in their place.

7. A new § 318.13–4j is added to read as follows:

§ 318.13–4j Administrative instructions governing the interstate movement of cut blooms of gardenia from Hawaii.

Cut blooms of gardenia may be moved interstate from Hawaii if grown and inspected in accordance with the provisions of this section.

(a) The grower's production area must be inspected annually by an inspector and found free of green scale. If green scale is found during an inspection, a 2-month ban will be placed on the interstate movement of cut blooms of gardenia from that production area. Near the end of the 2 months, an inspector will reinspect the grower's production area to determine whether green scale is present. If reinspection determines that the production area is free of green scale, shipping may resume. If reinspection determines that green scale is still present in the production area, another 2-month ban on shipping will be placed on the interstate movement of gardenia from that production area. Each ban will be followed by reinspection in the manner specified, and the production area must be found free of green scale prior to interstate movement.

(b) The grower must establish a buffer area surrounding gardenia production areas. The buffer area must extend 20 feet from the edge of the production area. Within the buffer area, the growing of gardenias and the following green scale host plants is prohibited: Ixora, ginger *(Alpina purpurata),* plumeria, coffee, rambutan, litchi, guava, citrus, anthurium, avocado, banana, cocoa, macadamia, celery, *Pluto indicia* (a weed introduced into Hawaii), mango, orchids, and annona.

(c) An inspector must visually inspect the cut blooms of gardenias in each shipment prior to interstate movement from Hawaii to the mainland United States. If the inspector does not detect green scale in the shipment, the inspector would issue a certificate for the shipment in accordance with § 318.13–4(a). If the inspector finds green scale in a shipment, that shipment will be ineligible for interstate movement from Hawaii.

(Approved by the Office of Management and Budget under control number 0579–0197)

Done in Washington, DC this 30th day of January 2003.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–2683 Filed 2–4–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01–037–2]

Importation of Used Farm Equipment From Regions Affected With Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the regulations concerning foot-and-mouth disease to prohibit the importation of used farm equipment from regions affected with foot-and-mouth disease unless the equipment has been steam-cleaned prior to export to the United States so that it is free of exposed dirt and other particulate matter. The interim rule also provided that cleaned equipment that arrives at the port of arrival with a minimal amount of exposed dirt may, under certain conditions, be cleaned at

the port of arrival. The interim rule was necessary to help prevent the introduction of foot-and-mouth disease into the United States.

EFFECTIVE DATE: The interim rule became effective on March 31, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Karen James-Preston, Assistant Director, Technical Trade Services Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1231; (301) 734–8364.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of specified animals and animal products into the United States in order to prevent the introduction of various animal diseases, including foot-and-mouth disease (FMD). Because of the highly communicable nature of FMD, it is necessary to protect livestock that are free of the disease from any animals, animal products, or other articles that might be contaminated with the FMD virus.

In an interim rule effective March 31, 2001, and published in the **Federal Register** on May 13, 2002 (67 FR 31935–31938, Docket No. 01–037–1), we amended the regulations to prohibit the importation of used farm equipment from regions affected with FMD unless the equipment was steam-cleaned prior to export to the United States so that it is free of exposed dirt and other particulate matter. Such equipment must also be accompanied by an original certificate signed by an authorized official of the national animal health service of the country of origin stating that such cleaning was done. We also provided that cleaned equipment that arrives at a U.S. port with the required certification from the exporting region but is found upon Animal and Plant Health Inspection Service (APHIS) inspection to contain a minimal amount of exposed dirt or other particulate matter may be cleaned at the port of arrival should the APHIS inspector determine that there are adequate facilities and personnel at the port to conduct such cleaning without the risk of disease contamination.

Comments on the interim rule were required to be received on or before July 12, 2002. We received two comments by that date, from a farmer and a representative of a dairy industry organization. Both commenters supported the interim rule but requested that additional steps be taken to prevent the introduction of FMD into the United States. One commenter asked APHIS to ensure that dirt or other particulate matter trapped in large tires on farm equipment would be adequately cleaned. We believe that the cleaning and inspection requirements established by the interim rule will be adequate to ensure that any such residue will be eliminated.

The second commenter supported the requirement for pre-export steam cleaning, but suggested that if an APHIS inspector notes exposed dirt on the equipment at the port of arrival and determines that the equipment can be cleaned, APHIS should require not only that the equipment be steam-cleaned but disinfected as well, using an approved disinfectant. The interim rule provides that all used farm equipment imported into the United States must be steam-cleaned free of all exposed dirt and other particulate matter. If such equipment were to arrive at the port of entry with more than a minimal amount of exposed soil present, it would be clear to an inspector that the required cleaning was not properly conducted and the equipment would be denied entry. The inspector may only allow cleaning at the port of entry if the amount of exposed soil is minimal enough to allow cleaning and there are adequate facilities and personnel at the port to accomplish the cleaning. Thus any cleaning that might take place at a port of entry would be necessary to address the presence of only minimal amounts of exposed soil. Steam-cleaning, whether conducted in the equipment's country of origin or at a U.S. port, is sufficient to disinfect the equipment. Therefore, we do not believe that it is necessary to prescribe the use of a disinfectant in addition to the cleaning that would be conducted.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Orders 12866 and 12988 and the Paperwork Reduction Act.

Further, this action has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

This rule affirms an interim rule that amended the regulations by prohibiting the importation of used farm equipment from regions affected with FMD unless the equipment is steam-cleaned prior to export to the United States so that it is free of exposed dirt and other particulate matter and the equipment is accompanied by an original certificate from an authorized official of the national animal health service of the region of origin stating that such cleaning was done. The interim rule also provided that cleaned equipment that arrives at the port of arrival with a minimal amount of exposed dirt may, under certain conditions, be cleaned at the port of arrival.

The following analysis addresses the economic effect of the interim rule on small entities, as required by the Regulatory Flexibility Act.

While the term ''farm equipment,'' as defined in § 94.0 of the regulations, refers to a variety of vehicles and machinery used in agriculture, tractors are the one category of farm equipment for which trade data are maintained on previously used items.[1] Between 1996 and 2001, U.S. imports of used tractors were valued at about $62 million annually, and comprised about 4 percent of the value of all U.S. agricultural tractor imports (table 1). U.S. exports of used tractors were worth a little more than half that amount, about $34 million per year. Net imports of used tractors were thus worth about $28 million per year, about 10 percent of the value of net imports of tractors.[2]

[1] Harmonized tariff code 8701901090: Tractors, suitable for agricultural use, used, except track-laying type.

[2] The term ''net imports'' refers to the total value of tractor imports minus the total value of tractor exports.

TABLE 1.—VALUE OF U.S. IMPORTS AND EXPORTS OF TRACTORS AND USED TRACTORS SUITABLE FOR AGRICULTURAL USE, 6-YEAR AVERAGES (1996–2001)

[Tractor values are in millions of dollars]

	New and used tractors [1]	Used tractors [2]	Percent used tractors, by value
Imports	$1,483.12	$62.01	4.2
Exports	1,190.79	33.79	2.8
Net imports	292.33	28.22	9.7

Source: U.S. Department of Commerce, Bureau of the Census, as reported by the World Trade Atlas.
[1] Harmonized tariff code 870190: Tractors, not elsewhere specified or included.
[2] Harmonized tariff code 8701901090: Tractors, suitable for agricultural use, used, except track-laying type.

The United Kingdom is the largest supplier of used tractors to the United States, followed by Japan and Germany (table 2). These three countries have, on average, supplied nearly three-fourths of annual used tractor imports by the United States over the past 6 years. Canada, Netherlands, France, and Belgium supplied about 20 percent of imports combined.

TABLE 2.—VALUE OF USED TRACTOR IMPORTS[1] FROM THE LEADING SOURCES, 6-YEAR AVERAGES (1996–2001)

[Tractor values are in millions of dollars]

Country	Average value	Percentage of total
United Kingdom	$18.766	30.3
Japan	13.875	22.4
Germany	13.524	21.8
Canada	5.481	8.8
Netherlands	3.411	5.5
France	1.960	3.2
Belgium	1.509	2.4
Total from above sources	58.526	94.3
Total from all sources	62.014	–

Source: U.S. Department of Commerce, Bureau of the Census, as reported by the World Trade Atlas.
[1] Harmonized tariff code 8701901090: Tractors, suitable for agricultural use, used, except track-laying type.

Imports of used farm equipment from several of these countries have already been restricted by the interim rule because of FMD outbreaks in those countries after the rule became effective on March 31, 2001. However, import levels suggest that the interim rule has had little impact on trade volumes. For example, the value of used tractor imports from the United Kingdom (Great Britain and Northern Ireland) during 2001—throughout which its FMD-free status was revoked, except for the first 14 days of January—totaled $18.025 million. This amount compares closely with its 1996–2001 annual average of $18.766 million. Used tractor imports in the same year from Netherlands and France, both of which had their FMD-free status revoked at different times during 2001, were valued at $2.977 million and $1.800 million, respectively, amounts not very different from their 1996–2001 annual averages of $3.411 million and $1.960 million. Finally, used tractor imports from Japan in 2001, which had its FMD-free status revoked throughout the year, were valued at $15.071 million, an amount larger than its 1996–2001 annual average of $13.875 million.

Used tractors entering the United States from regions affected with FMD must be certified by the national animal health service of their region of origin as having been steam-cleaned before being exported. APHIS does not have information on steam-cleaning costs overseas, but costs at U.S. ports provide a basis for assessing the impact of the interim rule. The cost for steam-cleaning all the tractors shipped in a 40-foot container holding approximately 16 tractors with rotary tillers is roughly $2,000.[3] We expect the cost of certification would likely be less than $50. The average price of imported used tractors is about $4,940 each.[4] Thus, the value of the tractors in a container would total about $79,040, of which the $2,050 cost of cleaning and certification represents about 2.6 percent.

The principal cost component in both cleaning and certification is labor. It is expected, therefore, that cleaning and certification costs would not be any higher overseas, and could well be lower, depending on relative labor costs. The 2.6 percent may represent an upper bound of the additional import expenses that would be attributable to the interim rule.

The two groups that can be expected to incur some costs as a result of the interim rule are importers of used farm equipment and farmers; if passed along by the exporter, importers and farmers will likely split the additional cost of the required cleaning and certification depending on the demand elasticity in the market for used farm equipment. Most importers likely employ fewer than 100 people, the threshold the Small Business Administration has set for such firms to be called small entities. Most farms earn $750,000 or less in annual receipts, the corresponding threshold for agricultural operations to be called small entities. Therefore, most businesses likely to be affected by the interim rule are small entities. However, the data on used tractors, currently the only data available on used farm equipment, indicate that the effects will

[3] APHIS cost estimates for the port of Long Beach, CA.

[4] Six-year average, 1996–2001. U.S. Department of Commerce, Bureau of the Census, as reported by the World Trade Atlas.

not be large; cleaning and certification expenses will add less than 3 percent to the cost of imported used tractors.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 94 and that was published at 67 FR 31935–31938 on May 13, 2002.

Authority: 7 U.S.C. 450, 7711–7714, 7751, 7754, 8303, 8306, 8308, 8310, 8311, and 8315; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 30th day of January 2003.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–2682 Filed 2–4–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–316–AD; Amendment 39–13044; AD 2003–03–19]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Boeing Model 747 series airplanes. This action requires a one-time inspection of the fuselage skin of the aft lower body for certain repair doublers, and follow-on inspections and corrective actions if such doublers are installed. For certain airplanes, this action includes optional repetitive inspections of the fuselage skin for scratches or cracking. This action is necessary to find and fix possible fatigue cracking of the fuselage skin concealed under certain repair doublers, which could result in rapid decompression of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective February 20, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 20, 2003.

Comments for inclusion in the Rules Docket must be received on or before April 7, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–316–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–316–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, PO Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rick Kawaguchi, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1153; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: In May 2002, a Boeing Model 747–200 series airplane was involved in an in-flight breakup. A portion of the fuselage skin with a repair doubler attached was recovered, and investigation revealed that the repair doubler was installed after a tail strike that occurred in 1980 and caused scratches to the skin. Examination of the skin underneath the doubler revealed longitudinal scratches, which could have been caused by the tail strike event, and a 15-inch crack found underneath the repair doubler that originated from and extended along these scratches. Further investigation of the affected area revealed that certain damage (scratches) may not have been found and removed after the tail strike, which led to fatigue cracking over time. The probable cause of the accident has not yet been determined.

The FAA recently received a second report indicating that scratches were found under a repair doubler on a Model 747–200 series airplane during an inspection requested by the manufacturer. It has been determined that the aft ''belly'' portion of the section 46 fuselage on Model 747 series airplanes is susceptible to tail strike damage during landing and takeoff. Repair procedures in the Boeing 747 structural repair manual describe blending out such damage on the skin and installing a repair doubler over the affected area. Any unremoved damage could result in fatigue cracking of the fuselage skin concealed under certain repair doublers, and consequent rapid decompression of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–53A2489, dated November 26, 2002, which describes procedures for a one-time external visual inspection of the fuselage skin at body stations 1961 through 2360 inclusive, between stringers S–46L and S–46R, for repair doublers. If a repair doubler is installed, and the repair doubler meets all four criteria (external repair doubler, at least 8 inches long longitudinally (in the forward and aft direction), has fasteners common to a frame, and was installed due to a tail strike or for unknown reasons) specified in Figure 2 of the service bulletin, the service bulletin describes procedures for follow-on inspections and corrective actions.

The follow-on inspections and corrective actions include removal of the doubler, a one-time assessment (inspection) of the skin under the doubler for damage (scratches, cracking), and repair of any damage found. For certain airplanes, as an alternative to removal of the doubler and assessment of the skin underneath, the service bulletin describes procedures for repetitive inspections of the fuselage skin for damage. These inspections are either internal mid-frequency eddy current, or external

detailed visual, depending on the length of the doubler. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

The service bulletin also specifies contacting Boeing for disposition of certain repair conditions.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other 747 series airplanes of the same type design, this AD is being issued to find and fix possible fatigue cracking of the fuselage skin concealed under certain repair doublers, which could result in rapid decompression of the airplane. This AD requires a one-time inspection of the fuselage skin of the aft lower body for repair doublers, and follow-on inspections and corrective actions if repair doublers are installed. This AD also includes optional repetitive inspections of the fuselage skin for scratches or cracking. The actions are required to be accomplished in accordance with the service bulletin described previously, except as discussed below.

Differences Between Service Bulletin and This AD

The service bulletin specifies an inspection of the fuselage skin between stringers S–46L and S–46R for the presence of doublers. However, the FAA has determined that repairs common to the S–46 lap splice that do not extend inboard more than 4 inches from the S–46 center line do not require the inspection. Tail strike damage would more likely occur towards the ''belly'' portion of the section 46 fuselage. Repairs limited to the S–46 lap splice area are probably due to corrosion findings. The manufacturer agrees with this determination and will incorporate this change into the next revision of Boeing Alert Service Bulletin 747–53A2489.

The service bulletin also specifies that the manufacturer may be contacted for disposition of certain repair conditions, but this AD would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA, or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings.

Interim Action

This is considered to be interim action. The FAA is currently considering further rulemaking action to revise the compliance time of this AD to include airplanes that have accumulated more than 10,000 total flight cycles, but less than 15,000 total flight cycles; however, the planned compliance time for the additional airplanes is sufficiently long so that notice and opportunity for prior public comment will be practicable.

Determination of Rule's Effective Date

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

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–316–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–03–19 Boeing: Amendment 39–13044. Docket 2002–NM–316–AD.

Applicability: All Model 747 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 find and fix possible fatigue cracking of the fuselage skin concealed under certain repair doublers, which could result in rapid decompression of the airplane, accomplish the following:

One-Time Inspection

(a) Before the accumulation of 15,000 total flight cycles or within 90 days after the effective date of this AD, whichever is later, do a general visual inspection for repair doublers on the fuselage skin at body stations 1961 through 2360 inclusive, between stringers S–46L and S–46R. The inspection is only for doublers that meet all of the following four criteria: External repair doublers, doublers at least 8 inches long longitudinally (in the forward and aft direction), doublers that have fasteners common to a frame, doublers installed due to a tail strike or for unknown reasons. Do the inspection per Part 1 and Figure 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2489, dated November 26, 2002.

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

Follow-on Inspections

(b) Except as provided by paragraph (c) of this AD, for any repair doubler subject to the requirements of paragraph (a) of this AD: Remove the repair doubler and do the inspections/assessment (includes external detailed, external visual, and external high frequency eddy current (HFEC) inspections) of the fuselage skin for damage (cracking or scratches) per Part 2 and Figure 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2489, dated November 26, 2002. Do the inspections at the applicable time specified in paragraph (b)(1) or (b)(2) of this AD. If any crack or scratch is found, before further flight, do the corrective actions specified in paragraph (f) of this AD.

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

(1) If the date of installation of the repair doubler is unknown, or 10,000 or more flight cycles have accumulated since the date of installation of the repair doubler, do the inspections before further flight.

(2) If less than 10,000 flight cycles have accumulated since the date of installation of the repair doubler, do the inspections within 10,000 flight cycles after the date of installation of the repair doubler.

(c) For any repair doubler that meets either of the conditions specified in paragraphs (c)(1) and (c)(2) of this AD: No action is required by this AD for that doubler only.

(1) The repair doubler is common to the S–46 lap splice and does not extend inboard more than 4 inches from the center line.

(2) A skin assessment was done before installing the repair doubler per Figure 6 of Boeing Alert Service Bulletin 747–53A2489, dated November 26, 2002.

Optional Repetitive Inspections

(d) For airplanes that meet the conditions specified in paragraph (d)(1) or (d)(2) of this AD, as alternative to the inspections required by paragraph (b) of this AD: Do the applicable inspections required by either paragraph (d)(1) or (d)(2) of this AD per Boeing Alert Service Bulletin 747–53A2489, dated November 26, 2002; at the applicable time specified in paragraph (b)(1) or (b)(2) of this AD.

(1) If the edge of the doubler does not end on a stringer center line: Do an internal mid-frequency eddy current (MFEC) inspection of the fuselage skin for cracking (if the edge of the doubler ends on a stringer center line it is not possible to do the MFEC inspection) per Part 3 and Figure 4 of the Accomplishment Instructions of the service bulletin. If no crack is found, before further flight, do an external detailed inspection for scratches per Part 3 and Figure 4, of the Accomplishment Instructions of the service bulletin. If any scratch is found, before further flight, do an external HFEC inspection of the scratched area for cracking. If no scratch is found during the external detailed inspection or if no crack is found during the external HFEC inspection; repeat the MFEC inspection at least every 250 flight cycles.

(2) If the doubler is 20 inches in length or less, do an external detailed inspection of the fuselage skin for damage (cracking or scratches) per Part 4 and Figure 5 of the Accomplishment Instructions of the service bulletin. If any scratch is found, before further flight, do an external HFEC inspection of the scratched area for cracking. If no scratch is found during the external detailed inspection or if no crack is found during the external HFEC inspection, repeat the external detailed inspection per paragraph (d)(2)(i) or (d)(2)(ii) of this AD, as applicable.

(i) If the doubler is 8–15 inches in length, repeat the inspection at least every 200 flight cycles.

(ii) If the doubler is 15–20 inches in length, repeat the inspection at least every 50 flight cycles.

(e) If, during any inspection required by paragraph (d)(1) or (d)(2) of this AD, any scratch is found, but no crack: Within 1,000 flight cycles or 18 months after doing the inspection required by paragraph (a) of this AD, whichever is first, do the inspections required by paragraph (b) of this AD. Accomplishment of this paragraph ends the repetitive inspections required by paragraph (d)(1) or (d)(2) of this AD, as applicable.

Corrective Actions

(f) If any crack is found during any inspection required by this AD, or if any scratch is found during any inspection required by paragraph (b) of this AD: Before further flight, repair per the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2489, dated November 26, 2002. Where the service bulletin specifies to contact Boeing for appropriate action: Before further flight, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

Adjustments to Compliance Time: Cabin Differential Pressure

(g) For the purposes of calculating the compliance threshold and repetitive interval for the actions required by this AD: The number of flight cycles in which cabin differential pressure is at 2.0 pounds per square inch (psi) or less need not be counted when determining the number of flight cycles that have occurred on the airplane, provided that flight cycles with momentary spikes in cabin differential pressure above 2.0 psi are included as full pressure cycles. For this provision to apply, all cabin pressure records must be maintained for each airplane: No fleet-averaging of cabin pressure is allowed.

Reporting Requirement

(h) Within 30 days after doing the initial inspections required by paragraphs (b) and (d) of this AD: Submit a report of inspection findings of cracking or scratches of the fuselage skin to the Manager, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; fax (425) 227–1181. The report must include the inspection results (airplane line number, size and location of damage, and type of discrepancy found). Information collection requirements contained in this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of

1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

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, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Incorporation by Reference

(k) Unless otherwise specified in this AD: The actions shall be done in accordance with Boeing Alert Service Bulletin 747–53A2489, dated November 26, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(l) This amendment becomes effective on February 20, 2003.

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

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–2210 Filed 2–4–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–20–AD; Amendment 39–13041; AD 2003–02–51]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2C10 (Regional Jet Series 700 and 701) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting airworthiness directive (AD) 2003–02–51 that was sent previously to all known U.S. owners and operators of Bombardier Model CL–600–2C10 (Regional Jet Series 700 and 701) series airplanes by individual notices. This AD requires an airplane flight manual (AFM) revision to introduce new quantity limitations for the center fuel tank and associated procedures; to limit flight to within 30 minutes of a suitable alternative airport; and to limit the center tank fuel quantity to 1,500 lbs. (680 kgs.) maximum at takeoff. This action is prompted by issuance of mandatory continuing airworthiness information by a civil airworthiness authority. The actions specified by this AD are intended to detect and correct discrepancies in the fuel distribution system, which could cause the center tank to overfill and fuel to leak from the center tank vent system or to become inaccessible, and could result in engine fuel starvation.

DATES: Effective February 10, 2003, to all persons except those persons to whom it was made immediately effective by emergency AD 2003–02–51, issued January 16, 2003, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 10, 2003.

Comments for inclusion in the Rules Docket must be received on or before March 7, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–20–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2003–NM–20–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The applicable service information may be obtained from Bombardier, Inc., Canadair, Aerospace Group, PO Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rodrigo J. Huete, Flight Test Pilot, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7518; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: On January 16, 2003, the FAA issued emergency AD 2003–02–51, which is applicable to all Bombardier Model CL–600–2C10 (Regional Jet Series 700 and 701) series airplanes.

Background

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, advises that vibration and fuel line misalignment in the center tank has resulted in damage to fuel line couplings and cracks in the fuel feed lines. TCCA also advises that more recently four incidents have been reported of cracked fuel feed lines near the welded boss for the transfer ejector motive flow lines within the center fuel tank. The airplanes landed without incident. As a result of the fuel leakage into the center tank, an imbalance of fuel could occur within the fuel system and a significant amount of fuel may not be usable during flight. Discrepancies in the fuel distribution system, if not detected and corrected, could cause the center tank to overfill and fuel to leak from the center tank vent system or to become inaccessible, and could result in engine fuel starvation.

Explanation of Relevant Service Information

Bombardier has issued Canadair Temporary Revision (TR) RJ 700/42, dated January 14, 2003, which describes procedures for revising the Limitations, Normal Procedures, and Abnormal Procedures sections of the Airplane Flight Manual (AFM) to introduce new quantity limitations for the center fuel tank and associated procedures. TCCA classified this TR as mandatory and issued Canadian airworthiness directive CF–2003–01, dated January 15, 2003, in order to ensure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

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

Other Relevant Rulemaking

On May 7, 2002, the FAA issued AD 2002–08–19, amendment 39–12731 (67 FR 31939, May 13, 2002), applicable to all Bombardier Model CL–600–2C10 (Regional Jet Series 700 and 701) series airplanes. That AD requires revising the AFM to address uncommanded transfer of fuel between the wing fuel tanks and the center fuel tank; revising the Minimum Equipment List (MEL); limiting airplane operation; and increasing normal mission fuel requirements by 3,000 pounds. That AD also requires modification of the fuel distribution system for the center tank; an inspection of the system for discrepancies; and corrective actions if necessary.

This AD, however, addresses a newly identified failure mode in the fuel transfer system involving fuel leaks in the aft section of the center fuel tank, while the failure mode discussed in AD 2002–08–19 involves fuel leaks in the forward section of the center fuel tank.

Explanation of the Requirements of the Rule

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the FAA issued emergency AD 2003–02–51 to detect and correct discrepancies in the fuel distribution system, which could cause the center tank to overfill and fuel to leak from the center tank vent system or to become inaccessible, and could result in engine fuel starvation. The AD requires an AFM revision to introduce new quantity limitations for the center fuel tank and associated procedures; to limit flight to within 30 minutes of a suitable alternative airport; and to limit the center tank fuel quantity to 1,500 lbs. (680 kgs.) maximum at takeoff. This AD terminates certain requirements of AD 2002–08–19.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual notices issued on January 16, 2003, to all known U.S. owners and operators of Bombardier Model CL–600–2C10 (Regional Jet Series 700 and 701) series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective as to all persons.

Interim Action

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2003–NM–20–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–02–51 Bombardier, Inc. (Formerly Canadair): Amendment 39–13041. Docket 2003–NM–20–AD.

Applicability: Model CL–600–2C10 (Regional Jet Series 700 and 701) series airplanes, serial numbers (S/N) 10005 and subsequent; 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 (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: Required as indicated, unless accomplished previously.

To detect and correct discrepancies in the fuel distribution system, which could cause the center tank to overfill and fuel to leak from the center tank vent system or to 2 become inaccessible, and could result in engine fuel starvation, accomplish the following:

Revision of Airplane Flight Manual (AFM)

(a) Within 2 days after the effective date of this AD, revise the applicable Limitations, Normal Procedures, and Abnormal Procedures sections of Canadair Regional Jet Series 700 AFM CSP B–012 by incorporating Canadair Temporary Revision (TR) RJ 700/42, dated January 14, 2003, and operate the airplane in accordance with those limitations and procedures.

(b) When the information incorporating Canadair Temporary Revision RJ 700/42, dated January 14, 2003, has been incorporated into the general revisions of the AFM, the general revisions may be incorporated into the AFM, and these TRs may be removed from the AFM.

(c) Within 2 days after the effective date of this AD, revise the Limitations section of Canadair Regional Jet Series 700 AFM CSP B–012 to limit operation of the airplane to flight within 30 minutes of a suitable alternative airport. This action may be accomplished by inserting a copy of this AD into the Limitations section of the AFM. Accomplishment of this action constitutes terminating action for the AFM revision required by paragraphs (c) and (g) of AD 2002–08–19, amendment 12731.

(d) Within 2 days after the effective date of this AD, revise the Limitations section of Canadair Regional Jet Series 700 of AFM CSP B–012 to specify that, prior to each further flight, the center fuel quantity must be limited to 1,500 lbs. maximum at takeoff. This action may be accomplished by inserting a copy of this AD into the Limitations section of the AFM.

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 (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, New York ACO.

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

Special Flight Permits

(f) 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, provided the limitations provided in paragraphs (f)(1), (f)(2), and (f)(3) of this AD are provided in the special flight permit:

(1) Normal mission fuel requirements must be increased by 3000 lbs.

(2) Operations must be within thirty (30) minutes of a suitable alternate airport.

(3) Center fuel tank limited to 1,500 lbs at takeoff.

Incorporation by Reference

(g) The AFM revision required by paragraph (a) of this AD shall be done in accordance with Canadair Temporary Revision RJ 700/42, dated January 14, 2003. 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 Bombardier, Inc., Canadair, Aerospace Group, PO Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; 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 Canadian airworthiness directive CF–2003–01, dated January 15, 2003.

Effective Date

(h) This amendment becomes effective on February 10, 2003, to all persons except those persons to whom it was made immediately effective by emergency AD 2003–02–51, issued January 16, 2003, which contained the requirements of this amendment.

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

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–2151 Filed 2–4–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–140–AD; Amendment 39–13042; AD 2003–03–17]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dornier Model 328–100 and –300 series airplanes, that requires replacement of the screws in the aileron, rudder, and elevator trim tabs with new screws; and removal and re-installation of screws in the aileron, elevator, and rudder trim tabs and the rudder spring tab; as applicable. This action is necessary to prevent reduced structural integrity of the screws in the aileron, elevator, and rudder trim tabs and the rudder spring tab, due to countersinks that were not manufactured correctly, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective March 12, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 12, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, PO Box 1103, D–82230 Wessling, Germany. 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, International Branch, ANM–116, FAA, Transport Airplane Directorate, 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 certain Dornier Model 328–100 and –300 series airplanes was published in the **Federal Register** on September 25, 2002 (67 FR 60193). That action proposed to require replacement of the screws in the aileron, rudder, and elevator trim tabs with new screws; and removal and re-installation of screws in the aileron, elevator, and rudder trim tabs and the rudder spring tab; as applicable.

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

The FAA estimates that 53 Model 328–100 series airplanes and 48 Model 328–300 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be supplied by the manufacturer at no cost to operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $18,180, or $180 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:

2003–03–17 Dornier Luftfahrt GMBH: Amendment 39–13042. Docket 2002–NM–140–AD.

Applicability: Airplanes listed in Table 1 of this AD, certificated in any category. Table 1 follows:

TABLE 1.—APPLICABILITY

Model	Serial numbers
328–100 series airplanes	3005 through 3119 inclusive.
328–300 series airplanes	3105 through 3196, excluding 3192 through 3194, inclusive.

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 2 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: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the screws in the aileron, elevator, and rudder trim tabs and the rudder spring tab, due to countersinks that were not manufactured correctly, which could result in reduced controllability of the airplane, accomplish the following:

Screw Replacement or Removal and Re-Installation

(a) For Model 328–100 series airplanes: Within 2 months after the effective date of this AD, do the actions specified in paragraphs (a)(1), (a)(2), and (a)(3) of this AD; as applicable.

(1) Replace the screws in the aileron trim tab with new screws (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty), per Dornier Service Bulletin SB–328–57–350, Revision 2, dated January 16, 2002.

(2) Replace the screws in the rudder and elevator trim tabs with new screws (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty), per Dornier Service Bulletin SB–328–55–368, Revision 1, dated December 11, 2001.

(3) Except as provided by paragraph (b) of this AD, do the actions specified in paragraphs (a)(3)(i), (a)(3)(ii), and (a)(3)(iii) of this AD, per Dornier Service Bulletin SB–328–55–422, dated February 8, 2002.

(i) Remove and re-install the screws in the elevator trim tab (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty).

(ii) Remove and re-install the screws in the rudder trim tab (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty).

(iii) Remove and re-install the screws in the rudder spring tab (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty).

(b) For Model 328–100 series airplanes on which the actions specified in Dornier Service Bulletin SB–328–55–368, Revision 1, dated December 11, 2001, have been accomplished, the requirements specified in paragraphs (a)(3)(i) and (a)(3)(ii) of this AD do not need to be accomplished.

(c) For Model 328–300 series airplanes: Within 2 months after the effective date of this AD, do the actions specified in paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD; as applicable.

(1) For airplanes having serial numbers 3105 through 3174 inclusive: Replace the screws in the aileron trim tab with new screws (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty), per Dornier Service Bulletin SB–328J–57–057, Revision 2, dated January 16, 2002.

(2) For airplanes having serial numbers 3105 through 3174 inclusive: Replace the screws in the rudder and elevator trim tabs with new screws (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty), per Dornier Service Bulletin SB–328J–55–074, Revision 1, dated December 11, 2001.

(3) For airplanes having serial numbers 3105 through 3196, excluding serial numbers 3192 through 3194 inclusive: Except as provided by paragraph (d) of this AD, do the actions specified in paragraphs (c)(3)(i), (c)(3)(ii), and (c)(3)(iii) of this AD, per Dornier Service Bulletin SB–328J–55–153, dated February 8, 2002.

(i) Remove and re-install the screws in the elevator trim tab (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty).

(ii) Remove and re-install the screws in the rudder trim tab (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty).

(iii) Remove and re-install the screws in the rudder spring tab (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty).

(4) For airplanes having serial numbers 3175 through 3196, excluding serial numbers 3192 through 3194 inclusive: Remove and re-install the screws in the aileron trim tab (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty), per Dornier Service Bulletin SB–328J–57–152, dated February 8, 2002.

(d) For Model 328–300 airplanes on which the actions specified in Dornier Service Bulletin SB–328J–55–074, Revision 1, dated December 11, 2001, have been accomplished, the requirements specified in paragraphs (c)(3)(i) and (c)(3)(ii) of this AD do not need to be accomplished.

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, International Branch, ANM–116, Transport Airplane Directorate, 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 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

(f) 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

(g) The actions shall be done in accordance with the Dornier service bulletins listed in Table 2 of this AD as follows:

TABLE 2.—SERVICE BULLETINS

Dornier service bulletin	Revision	Date
SB–328–57–350	2	January 16, 2002
SB–328–55–368	1	December 11, 2001
SB–328–55–422	Original	February 8, 2002
SB–328J–57–057	2	January 16, 2002
SB–328J–55–074	1	December 11, 2001
SB–328J–55–153	Original	February 8, 2002
SB–328J–57–152	Original	February 8, 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 FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, PO Box 1103, D–82230 Wessling, Germany. 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 German airworthiness directives 2002–126/2 and 2002–127/2, both dated June 27, 2002.

Effective Date

(h) This amendment becomes effective on March 12, 2003.

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

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–2152 Filed 2–4–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–102–AD; Amendment 39–13040; AD 2003–03–16]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–223, –321, –322, and –323 Series Airplanes Equipped With Pratt & Whitney Model PW4164, PW4168, or PW4168A Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Airbus Model A330–223, –321, –322, and –323 series airplanes equipped with Pratt & Whitney Model PW4164, PW4168, or PW4168A engines. This action requires modification of the primary structure of the engine pylons, and replacement of the thrust reverser locking actuators with new, improved locking actuators. This action is necessary to prevent reduced structural integrity of the primary structure of the engine pylons, and uncommanded deployment of the thrust reversers, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective February 20, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 20, 2003.

Comments for inclusion in the Rules Docket must be received on or before March 7, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–102–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov.* Comments sent via fax or the Internet must contain

''Docket No. 2002–NM–102–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A330–223, –321, –322, and –323 series airplanes equipped with Pratt & Whitney Model PW4164, PW4168, or PW4168A engines. The DGAC advises that engine fan blade-out tests performed by the engine manufacturer, Pratt &Whitney, have shown that the loads used for certification of the engines were underestimated. In the event of an engine fan blade-out, the induced loads could lead to reduced structural integrity of the primary structure of the engine pylons, and uncommanded deployment of the thrust reversers. This condition, if not corrected, could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A330–54–3016, Revision 01, dated August 7, 2000, which describes procedures for the modification of the primary structure of the engine pylons. The modification includes, among other actions, replacing the stainless steel screws at rib 8B and rib 12 with Inconel screws, and replacing the stainless steel screws located on the lateral panel seam of the lower spar between rib 8C and rib 10 with stainless steel screws of the next-higher-nominal diameter.

Airbus has also issued Service Bulletin A330–78–3011, dated December 14, 1999, which describes procedures for the replacement of the thrust reverser locking actuators with new, improved locking actuators.

Accomplishment of the actions specified in these service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified these service bulletins as mandatory and issued French airworthiness directive 2000–237–123(B) R1, dated December 12, 2001, in order to assure the continued airworthiness of these airplanes in France.

Airbus Service Bulletin A330–78–3011, dated December 14, 1999, references Pratt & Whitney Service Bulletin PW4G–100–78–71, dated September 24, 1999, as an additional source of service information for accomplishment of the replacement of the thrust reverser locking actuators.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design that may be registered in the United States at some time in the future, this AD is being issued to prevent the reduced structural integrity of the primary structure of the engine pylons, and uncommanded deployment of the thrust reversers, which could result in reduced controllability of the airplane. This AD requires accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

Differences Between this AD and the French Airworthiness Directive

This AD differs from the parallel French airworthiness directive in that it will not require repetitive visual inspections of the fan blades at intervals not to exceed 500 engine hours, or an ultrasonic inspection of the attachment area of the fan blade root before the accumulation of 5,000 parts cycles since new, or within 500 parts cycles after the effective date of the French airworthiness directive. These inspections are not associated with any known unsafe condition. The DGAC required these inspections to minimize the possibility of a fan blade-off event, pending the retrofit of the modifications in paragraph 3 of the French airworthiness directive. All Airbus Model A330–223, –321, –322, and –323 series airplanes of U.S. registry were delivered with the modifications installed.

The French airworthiness directive defers implementation of the mandatory actions (*i.e.*, modification of the engine pylon and replacement of the thrust reverser locking actuators) for a period of time by requiring the inspections described in the preceding paragraph. The compliance time for accomplishment of the mandatory actions is before the accumulation of 8,000 flight cycles since new, or before August 1, 2004, whichever occurs first. The DGAC advises that if the inspections in the preceding paragraph are not mandated, the modifications must be accomplished in a timeframe comparable to that of the inspections. Therefore, this AD requires accomplishment of the mandatory actions within 500 engine hours or six months after the effective date of this AD, whichever occurs later.

Operators should note that, unlike the French airworthiness directive, this AD will not require the replacement of the pylon aft mount nuts and bolts since the manufacturer has confirmed to the FAA that all pylon aft mount nuts and bolts made of MP159 material have already been replaced. Additionally, the French airworthiness directive requires replacement of the pylon front mount bolts made of MP159 material. The FAA has determined through review of data provided by the engine manufacturer that repetitive inspection of front mount bolts made of MP159 material addresses the unsafe condition. As discussed below, the FAA previously issued two other ADs that require these actions.

These differences have been coordinated with and acknowledged by the DGAC.

Other Relevant Rulemaking

The FAA has previously issued two other ADs that concern the pylon aft and forward mount nuts and bolts on Airbus airplanes:

1. AD 2000–25–53, amendment 39–12051 (65 FR 82259, December 28, 2000), requires repetitive inspections for cracks or other damage of pylon aft mount nuts and bolts made of MP159 material.

2. AD 2000–16–02, amendment 39–11856 (65 FR 49730, August 15, 2000), requires repetitive inspections and

torque checks for loose or broken pylon forward mount bolts made from INCO 718 material and establishes a new life limit for these bolts. The AD also requires repetitive inspections of pylon forward mount bolts made from MP159 material.

However, this AD will not affect the current requirements of either of those previously issued ADs.

Cost Impact

The FAA estimates that 9 airplanes of U.S. registry will be affected by this AD. The FAA has been advised that the 9 affected airplanes have been modified in accordance with the requirements of this AD. Therefore, currently, this AD action imposes no additional economic burden on any U.S. operator.

However, should an unmodified airplane be imported and placed on the U.S. Register in the future, it will take approximately 51 work hours per airplane to accomplish the actions, at an average labor rate of $60 per work hour. Required parts will be supplied by the manufacturer to the operators at no cost. Based on these figures, the cost impact of the AD is estimated to be $3,060 per airplane.

Determination of Rule's Effective Date

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

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–102–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–03–16 Airbus: Amendment 39–13040. Docket 2002–NM–102–AD.

Applicability: Airbus Model A330–223, –321, –322, and –323 series airplanes, certificated in any category, equipped with Pratt & Whitney Model PW4164, PW4168, or PW4168A engines; except those airplanes on which all of the following modifications have been installed:

—Modification 46147 (reference Airbus Service Bulletin A330–54–3016, Revision 01, dated August 7, 2000);
—Modification 46948 (reference Airbus Service Bulletin A330–71–3012, Revision 01, dated August 25, 2000), or Modification 49419 (reference Airbus Service Bulletin A330–71–3015, Revision 01, dated March 19, 2002);
—Modification 46383 (reference Airbus Service Bulletin A330–71–3009, Revision 02, dated August 31, 2001); and
—Modification 47341 (reference Airbus Service Bulletin A330–78–3011, dated December 14, 1999).

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For 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 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 reduced structural integrity of the primary structure of the engine pylons, and uncommanded deployment of the thrust reversers, which could result in reduced controllability of the airplane, accomplish the following:

Modification of the Engine Pylon Primary Structure

(a) Prior to the accumulation of 500 flight cycles on the engine or 6 months after the effective date of this AD, whichever occurs later, modify the primary structure of the engine pylon by accomplishing all of the actions specified in the Accomplishment

Instructions of Airbus Service Bulletin A330–54–3016, Revision 01, dated August 7, 2000, per the service bulletin.

(b) Modifications accomplished before the effective date of this AD, per Airbus Service Bulletin A330–54–3016, dated July 15, 1999, are considered acceptable for compliance with the applicable modification required by this AD.

Replacement of Thrust Reverser Locking Actuators

(c) Within 500 hours on the engine or 6 months after the effective date of this AD, whichever occurs later, replace the thrust reverser locking actuators on engine 1 and engine 2 with new and improved actuators, per Airbus Service Bulletin A330–78–3011, dated December 14, 1999.

Note 2: Airbus Service Bulletin A330–78–3011, dated December 14, 1999, references Pratt & Whitney Service Bulletin PW4G–100–78–71, dated September 24, 1999, as an additional source of service information for accomplishment of the replacement of the thrust reverser locking actuators.

Parts Installation

(d) As of the effective date of this AD, no person may install a locking actuator having part number 1610000–11 or –13, on any airplane.

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, 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 3: 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

(f) 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

(g) Unless otherwise specified in this AD, the actions shall be done in accordance with Airbus Service Bulletin A330–54–3016, Revision 01, dated August 7, 2000; and Airbus Service Bulletin A330–78–3011, dated December 14, 1999; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from 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 4: The subject of this AD is addressed in French airworthiness directive 2000–237–123(B) R1, dated December 12, 2001.

Effective Date

(h) This amendment becomes effective on February 20, 2003.

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

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–2146 Filed 2–4–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–46–AD; Amendment 39–13038; AD 2003–03–14]

RIN 2120–AA64

Airworthiness Directives; Piaggio Aero Industries S.p.A. Model P–180 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Piaggio Aero Industries S.p.A. (Piaggio) Model P–180 airplanes. This AD requires you to inspect and determine whether any firewall shutoff or crossfeed valve with a serial number in a certain range is installed and requires you to replace any valve that has a serial number within this range. This AD allows the pilot to check the logbook and does not require the inspection and replacement requirement if the check shows that one of these valves is definitely not installed. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Italy. The actions specified by this AD are intended to prevent a faulty firewall shutoff or crossfeed valve from developing cracks and leaking fuel. This could result in an engine fire.

DATES: This AD becomes effective on March 8, 2003.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of March 8, 2003.

ADDRESSES: You may get the service information referenced in this AD from Piaggio Aero Industries S.p.A, Via Cibrario 4, 16154 Genoa, Italy; telephone: +39 010 6481 856; facsimile: +39 010 6481 374. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–46–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 Ente Nazionale per l' Aviazione Civile (ENAC), which is the airworthiness authority for Italy, recently notified FAA that an unsafe condition may exist on all Piaggio Model P–180 airplanes. The ENAC reports an incident of a ground fire on the left-hand engine nacelle of one of the affected airplanes. Investigation revealed that the fire was caused by a cracked crossfeed valve that had leaked fuel.

Further analysis led the ENAC to determine that the part number (P/N) EM484–3 valve was part of a manufacturing batch of nonconforming valves. This batch incorporates serial numbers 148 through 302 of these P/N EM484–3 valves. These valves can be utilized as either firewall shutoff or crossfeed valves.

What is the potential impact if FAA took no action? If these valves are not removed from service, they could develop cracks and leak fuel. This could result in an engine fire.

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 Piaggio Model P–180 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on November 13, 2002 (67 FR 68782). The NPRM proposed to require you to inspect and determine whether any firewall shutoff or crossfeed valve with a serial number in a certain range is installed and would require you to replace any valve that has a serial number within this range. The NPRM would allow the pilot to check the logbook and would not require the inspection and replacement requirements if the check showed that one of these valves was definitely not installed.

Was the public invited to comment? The FAA encouraged interested persons

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

FAA's Determination

What is FAA's final determination on this issue? After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We have determined that these minor corrections:

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

Cost Impact

How many airplanes does this AD impact? We estimate that this AD affects 22 airplanes in the U.S. registry.

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

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
2 workhours × $60 per hour = $120	Not applicable	$120	$2,640.

We estimate the following costs to accomplish the replacement/modification:

Labor cost	Parts cost	Total cost per airplane
8 workhours × $60 per hour = $480	Manufacturer will provide free of charge	$480.

Compliance Time of this AD

What will be the compliance time of this AD? The inspection compliance time of this AD is ''within the next 30 days after the effective date of the AD.''

Why is the compliance time presented in calendar time instead of hours time-in-service (TIS)? The compliance of this AD is presented in calendar time instead of hours TIS because the affected shutoff and crossfeed valves are unsafe as a result of a quality control problem. The problem has the same chance of existing on an airplane with 50 hours TIS as it would for an airplane with 1,000 hours TIS. Therefore, we believe that a compliance time of 30 days will:

- Ensure that the unsafe condition does not go undetected for a long period of time on the affected airplanes; and
- Not inadvertently ground any of the affected airplanes.

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:

2003–03–14 Piaggio Aero Industries S.p.A.: Amendment 39–13038; Docket No. 2002–CE–46–AD.

(a) *What airplanes are affected by this AD?* This AD affects Model P–180 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 a faulty firewall shutoff or crossfeed valve from developing cracks and leaking fuel. This could result in an engine fire.

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

Actions	Compliance	Procedures
(1) Maintenance Records Check:		

Actions	Compliance	Procedures
(i) Check the maintenance records to determine whether an Electro Mech part number (P/N) EM484–3 firewall shutoff or crossfeed valve with a serial number in the range of 148 through 302 is installed. 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 perform this check. (ii) If, by checking the maintenance records, the owner/operator can definitely show that no Electro Mech P/N EM484–3 firewall shutoff or crossfeed valves with a serial number in the range of 148 through 302 are installed, then the inspection requirement of paragraph (d)(2) and the replacement requirement of paragraph (d)(3) of this AD do not apply. You must make an entry into the aircraft records that shows compliance with these portions of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). (iii) If the pilot cannot definitely show that no affected firewall shutoff or crossfeed valves are installed through the maintenance records check, then the Inspection and Replacement requirements of paragraphs (d)(2) and (d)(3) of this AD must be accomplished by an appropriately-rated mechanic.	Within the next 30 days after March 8, 2003 (the effective date of this AD), unless already accomplished.	No special procedures required to check the maintenance records.
(2) Inspection: Inspect all Electro Mech P/N EM484–3 firewall shutoff and crossfeed valves to determine whether they incorporate a serial number in the range of 148 through 302.	Within the next 30 days after March 8, 2003 (the effective date of this AD), unless already accomplished.	In accordance with the Accomplishment Instructions in PIAGGIO Aero Industries S.p.A. Alert Service Bulletin: 80–0173, Original Issue: February 8, 2002.
(3) Replacement: If any Electro Mech P/N EM484–3 firewall shutoff or crossfeed valve is found that incorporates a serial number in the range of 148 through 302, accomplish one of the following:. (i) Install valve(s) that does not (do not) incorporate a serial number in the range of 148 through 302; or. (ii) Modify any valve(s) that incorporates (incorporate) a serial number in the range of 148 through 302. The valve will be re-identified with an ''A'' at the end of the serial number.	Accomplish any necessary replacements or modifications prior to further flight after the inspection required by paragraph (d)(2) of this AD, unless already accomplished.	Replace in accordance with applicable maintenance manual. Modify in accordance with the Accomplishment Instructions in Piaggio Aero Industries S.p.A. Service Bulletin: 80–0174, Original Issue: February 20, 2002.
(4) Spares: Do not install, on any airplane, any Electro Mech P/N EM484–3 firewall shutoff or crossfeed valve that incorporates a serial number in the range of 148 through 302, unless it has been modified as specified in paragraph (d)(3)(ii) of this AD.	As of March 8, 2003 (the effective date of this AD).	Not applicable.

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

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

(2) The 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?* Actions required by this AD must be done in accordance with Piaggio Aero Industries S.p.A. Alert Service Bulletin: 80–0173, Original Issue: February 8, 2002; and Piaggio Aero Industries S.p.A. Service Bulletin: 80–0174, Original Issue: February 20, 2002. 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 Piaggio Aero Industries S.p.A, Via Cibrario 4, 16154 Genoa, Italy; telephone: +39 010 6481 856; facsimile: +39 010 6481 374. 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 Italian RAI-AD 2002–442, dated February 21, 2002.

(i) *When does this amendment become effective?* This amendment becomes effective on March 8, 2003.

Issued in Kansas City, Missouri, on January 22, 2003.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–2149 Filed 2–4–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NE–45–AD; Amendment 39–13046; AD 2003–03–21]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Canada PW500 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Pratt & Whitney Canada (PWC) PW500 series turbofan engines. This action requires a one-time visual inspection and re-marking, or in lieu of inspection, replacement of certain part numbers (P/N's) of the flexible fuel tube located between the fuel/oil heat exchanger and the integral fuel control unit-fuel pump. This amendment is prompted by reports of fuel found dripping from engine nacelles caused by leaking flexible fuel tubes. The actions specified in this AD are intended to prevent a fire in the engine nacelle.

DATES: Effective February 20, 2003. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of February 20, 2003.

Comments for inclusion in the Rules Docket must be received on or before April 7, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–NE–45–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.gov*. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Pratt & Whitney Canada, 1000 Marie-Victorin, Longueuil, Quebec, Canada J4G1A1. This information may be examined, by appointment, at the 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: Transport Canada, which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on PWC PW530A, PW535A, and PW545A turbofan engines. Transport Canada has advised the FAA that there have been five reports of fuel dripping from the engine nacelle. It was found that the dripping fuel was the result of leaking flexible fuel tubes. Transport Canada advises that certain P/N's of the flexible fuel tube, located between the fuel/oil heat exchanger and the integral fuel control unit-fuel pump, may leak due to possible manufacturing defects in the tube.

Manufacturer's Service Information

PWC has issued Service Bulletin (SB) PW500–72–30217, Revision 1, dated July 29, 2002, that specifies procedures for performing a one-time visual inspection of flexible fuel tubes P/N's 30J2285–01 (PW530A engines), 3054416–01 (PW535A engines), and 30J2323–01 (PW545A engines). The tubes must be inspected externally for leaks, local swelling, sponginess of the red silicone rubber, gashes, gouges, and tears, and internally for kinks, gouging, or loose material in the tube bore. Tubes that pass inspection are then re-marked with a new P/N. In lieu of the tube inspection, the SB also allows for replacement of the flexible fuel tube with a different P/N tube. Transport Canada issued AD CF–2002–42, dated September 30, 2002, in order to assure the airworthiness of these PWC PW500 series turbofan engines in Canada.

Bilateral Airworthiness Agreement

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

FAA's Determination of an Unsafe Condition and Required Actions

Since an unsafe condition has been identified that is likely to exist or develop on other Pratt & Whitney Canada PW530A, PW535A, and PW545A turbofan engines of the same type design, this AD is being issued to prevent a fire in the engine nacelle. This AD requires the following within 50 flight hours, but no later than 60 days after the effective date of this AD, whichever occurs first:

- Replacement of flexible fuel tubes P/N's 30J2285–01 (PW530A engines), 3054416–01 (PW535A engines), and 30J2323–01 (PW545A engines) with flexible fuel tubes P/N's 30J2578–01, 3058704–01, and 30J2579–01 respectively; or
- A one-time visual external and internal inspection of flexible fuel tubes P/N's 30J2285–01, 3054416–01, and 30J2323–01; and
- Part number re-marking of flexible fuel tubes that pass inspection. The actions must be done in accordance with the service bulletin described previously.

Immediate Adoption of This AD

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

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic,

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NE–45–AD.'' The postcard will be date stamped and returned to the commenter.

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.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–03–21 Pratt & Whitney Canada: Amendment 39–13046. Docket No. 2002–NE–45–AD.

Applicability: This airworthiness directive (AD) is applicable to Pratt & Whitney Canada (PWC) PW530A, PW535A, and PW545A turbofan engines with flexible fuel tubes part numbers (P/N's) 30J2285–01, 3054416–01, and 30J2323–01 installed. These engines are installed on, but not limited to Cessna Citation model 550 ''Bravo'', model 560XL ''Excel'', and model 560 ''Encore'' airplanes.

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

Compliance: Compliance with this AD is required within 50 flight hours, but no later than 60 days after the effective date of this AD, whichever occurs first, unless already done.

To prevent a fire in the engine nacelle, do the following:

(a) Replace flexible fuel tubes P/N's 30J2285–01 (PW530A engines), 3054416–01 (PW535A engines), and 30J2323–01 (PW545A engines) with flexible fuel tubes P/N's 30J2578–01, 3058704–01, and 30J2579–01 respectively; or

(b) Perform a one-time visual external and internal inspection of flexible fuel tubes P/N's 30J2285–01 (PW530A engines), 3054416–01 (PW535A engines), and 30J2323–01 (PW545A engines), and fuel tube part number re-marking, in accordance with paragraphs 3.A.(1) through 3.A.(8) of the Accomplishment Instructions of PWC SB PW500–72–30217, Revision 1, dated July 29, 2002.

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, Engine Certification Office. Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine 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 Engine Certification Office.

Special Flight Permits

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

Documents That Have Been Incorporated by Reference

(e) The tube inspection or replacement must be done in accordance with Pratt & Whitney Canada Service Bulletin PW500–72–30217, Revision 1, dated July 29, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pratt & Whitney Canada, 1000 Marie-Victorin, Longueuil, Quebec, Canada J4G1A1. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Transport Canada airworthiness directive CF–2002–42, dated September 30, 2002.

Effective Date

(f) This amendment becomes effective on February 20, 2003.

Issued in Burlington, Massachusetts, on January 29, 2003.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 03–2632 Filed 2–4–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–240–AD; Amendment 39–13047; AD 2003–03–22]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, –700C, –800, and –900 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes, that requires installing speedbrake limitation placards in the

flight compartment, and revising the Limitations Section of the Airplane Flight Manual to ensure the flightcrew is advised not to extend the speedbrake lever beyond the flight detent. For certain airplanes, this AD requires modifying the elevator and elevator tab assembly. This action is necessary to prevent severe vibration of the elevator and elevator tab assembly, which could result in severe damage to the horizontal stabilizer followed by possible loss of the elevator tab and consequent loss of controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective March 12, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 12, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the 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: Nancy H. Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6440; fax (425) 917–6590.

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 Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes was published in the **Federal Register** on November 15, 2002 (67 FR 69157). That action proposed to require installing speedbrake limitation placards in the flight compartment, and revising the Limitations Section of the Airplane Flight Manual (AFM) to ensure the flightcrew is advised not to extend the speedbrake lever beyond the flight detent. For certain airplanes, that action also proposed to require modifying the elevator and elevator tab assembly.

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. One commenter concurs with the proposed AD. Two commenters state that they have no comments on the proposed AD.

Request To Clarify Certain Language in Paragraph (a)(2)

One commenter asks that certain language, as specified in paragraph (a)(2) of the proposed AD, be clarified. The commenter notes that the current language, which is to be included in the AFM, states the following: ''Do not extend the speedbrake lever beyond the flight detent in flight.'' That statement, as written, does not match the language specified in the existing AFM. The language should be changed, for clarification, to match the AFM language and should state: ''In flight, do not extend the speedbrake lever beyond the FLIGHT detent.''

The FAA agrees with the commenter in that the language used in paragraph (a)(2) of the AD should be clarified to match the AFM language. We have changed paragraph (a)(2) of this final rule accordingly.

Request To Change Discussion Section

The same commenter asks that the Discussion section of the proposed AD be changed to remove the reference to Boeing Model 737–900 series airplanes from the first sentence. That sentence states, ''The FAA has received several reports of excessive in-flight vibrations of the elevator and elevator tab on certain Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes.'' The commenter notes that no excessive in-flight vibrations of the elevator and elevator tab have occurred on Model 737–900 series airplanes.

The same commenter asks that certain terminology in the Discussion section of the proposed AD be changed. That section reads, in part, ''[t]he elevator and elevator tab are susceptible to excessive vibration and, under certain conditions, limit-cycle flutter. These vibration events have been attributed to loose or missing components, excessive wear, or excessive freeplay of the tab.'' The commenter requests that it be changed to, ''[t]he elevator and elevator tab are susceptible to excessive vibration and, under certain conditions, limit-cycle oscillation (LCO). These vibration events have been attributed to lack of torsional rigidity (in the case of LCO); or missing components, excessive wear, or excessive freeplay of the tab.'' The commenter states that LCO is the accepted and proper term to use when referring to the severe vibrations associated with lack of torsional stiffness.

We acknowledge that no excessive in-flight vibrations of the elevator and elevator tab have been reported on Model 737–900 series airplanes in-service. The intent of the Discussion section is to provide the background and events that prompted the proposed AD, and to specify that vibrations did occur on Model 737–600, –700, –700C, and –800 series airplanes in-service.

We acknowledge that the term ''lack of torsional rigidity'' is a valid term and could be used to describe a design deficiency that also contributes to excessive in-flight vibration. However, the terms ''LCO'' and ''LCF'' are not commonly used terms in the airline industry; these terms are used primarily by airplane manufacturers. We have concluded that the term ''high amplitude oscillations of the elevator tab'' best describes the condition in a manner understood by the airline industry.

Since the Discussion section of a proposed AD is not restated in a final rule, no change to this final rule is necessary to address the issues raised by the commenters.

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 change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 1,174 airplanes of the affected design in the worldwide fleet. We estimate that 550 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required placard installation, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required installation on U.S. operators is estimated to be $33,000, or $60 per airplane.

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 the required revision on U.S. operators is estimated to be $33,000, or $60 per airplane.

It will take approximately 88 work hours per airplane to accomplish the required modification of the elevator and elevator tab assembly, at an average labor rate of $60 per work hour. The FAA has been advised by Boeing that the manufacturer will provide parts for the elevator/tab retrofit, including

shipping, at no cost to operators. The manufacturer will have operators ''exchange'' their existing parts for new parts to support the retrofit program. Based on this information, the cost impact of the required modification on U.S. operators is estimated to be $2,904,000, or $5,280 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–03–22 Boeing: Amendment 39–13047. Docket 2002–NM–240–AD.

Applicability: Model 737–600, –700, –700C, –800, and –900 series airplanes; line numbers 1 through 1174 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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: Required as indicated, unless accomplished previously.

To prevent severe vibration of the elevator and elevator tab assembly, which could result in severe damage to the horizontal stabilizer followed by possible loss of the elevator tab and consequent loss of controllability of the airplane, accomplish the following:

Airplane Flight Manual (AFM) Revision/ Placard Installation

(a) For Model 737–600, –700, –700C, –800, and –900 series airplanes having line numbers 1 through 1043 inclusive: Within 90 days after the effective date of this AD, do the actions specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Install a speedbrake limitation placard on the P1–1 and P3–3 panel assemblies per Figure 1 or Figure 2, as applicable, of paragraph 3.B., ''Work Instructions,'' of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–11A1109, dated March 28, 2002.

(2) Revise the Limitations Section of the FAA-approved AFM to include the following statement (this may be accomplished by inserting a copy of this AD in the AFM): ''In flight, do not extend the speedbrake lever beyond the FLIGHT detent.''

Modification

(b) For Model 737–600, –700, –700C, and –800 series airplanes having line numbers 1 through 1174 inclusive: Before the accumulation of 18,000 total flight cycles, or within 2 years after the effective date of this AD, whichever occurs first, modify the elevator and elevator tab assemblies (including installation of a new clevis fitting and a new tab mechanism on the horizontal stabilizer and, for certain airplanes, examination of the hinge plates on the stabilizer trailing edge to make sure the specified hinges are installed; changes to the seals in the balance bays; and installation of new elevators and tab assemblies, followed by adjustments and tests of the new installation), per the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1080, dated September 19, 2002.

(c) Accomplishment of the modification required by paragraph (b) of this AD terminates the actions required by the ADs specified in the following table:

AD Number	Amendment Number
AD 99–15–09	39–11229
AD 99–18–01	39–11267
AD 2001–08–09	39–12186
AD 2001–09–51	39–12251
AD 2001–12–51	39–12294
AD 2001–14–05	39–12315
AD 2002–08–20	39–12732
AD 2002–08–52	39–12727

Operator's Equivalent Procedure

(d) If the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1080, dated September 19, 2002, specify that the actions may be accomplished in accordance with an operator's ''equivalent procedure:'' The actions must be accomplished per the applicable chapter of the Boeing 737 Airplane Maintenance Manual specified in the alert service bulletin.

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

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

Special Flight Permit

(f) 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

(g) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 737–11A1109, dated March 28, 2002; and Boeing Alert Service Bulletin 737–55A1080, dated September 19, 2002; as applicable. This incorporation by reference was approved by the Director of the **FEDERAL REGISTER** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane

Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(h) This amendment becomes effective on March 12, 2003.

Issued in Renton, Washington, on January 29, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–2496 Filed 2–4–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–CE–07–AD; Amendment 39–13043; AD 2003–03–18]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Beech Models 1900, 1900C, and 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Raytheon Aircraft Company (Raytheon) Beech Models 1900, 1900C, and 1900D airplanes. This AD requires you to perform control column sweep and stop bolt inspections to verify full elevator travel to the primary up and down stops and that the stop bolt length is not excessive, re-rig the elevator control system if the airplane does not pass the control column sweep and stop inspections, and do a more detailed inspection at a later time if the airplane does pass the inspection. This AD also requires you to report the results of certain inspections. This AD is the result of recent ground testing and a review of the rigging procedures of a Raytheon Beech Model 1900D airplane, which reveals that the elevator control system could be mis-rigged to restrict elevator travel if current maintenance procedures are not properly followed. In these instances, it may appear to the crew that they have full elevator control column movement. However, the elevator may not have full travel. Such restricted travel may remain undetected until the airplane is operated in a loading condition that requires full elevator authority to control the pitch. The actions specified by this AD are intended to detect and correct any mis-rigged elevator control system, which could lead to insufficient elevator control authority and loss of control of the airplane.

DATES: The AD becomes effective February 5, 2003, to all affected persons who did not receive emergency AD 2003–03–18, issued January 27, 2003. Emergency AD 2003–03–18 contained the requirements of this amendment and became effective immediately upon receipt and required the actions 4 days after issuance (January 31, 2003).

The Federal Aviation Administration (FAA) must receive any comments on this rule on or before March 7, 2003.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–CE–07–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9-ACE-7-Docket@faa.gov.* Comments sent electronically must contain ''Docket No. 2003–CE–07–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may view information related to this AD at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–CE–07–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: Paul DeVore, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4142; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Discussion

What Has Happened so Far?

Recent ground testing and a review of the rigging procedures of a Raytheon Beech Model 1900D airplane reveals that the elevator control system could be mis-rigged to restrict elevator travel if current maintenance procedures are not properly followed. In these instances, it may appear to the crew that they have full elevator control column movement. However, the elevator may not have full travel. Such restricted travel may remain undetected until the airplane is operated in a loading condition that requires full elevator authority to control the pitch.

The Raytheon Beech Models 1900 and 1900C airplanes incorporate the same elevator control system design and are affected by this condition.

In certain loading conditions, a mis-rigged elevator control system, if not detected and corrected, could lead to insufficient elevator control authority and loss of control of the airplane.

Raytheon has not issued service information regarding this subject. Rigging procedures are included in the applicable Raytheon 1900/1900C or 1900D maintenance manual.

On January 27, 2003, FAA issued emergency AD 2003–03–18 to require you to:

—Perform control column sweep and stop bolt inspections to verify full elevator travel to the primary up and down stops and to verify that the stop bolt length is not excessive;

—If the airplane does not pass the initial control column sweep and stop bolt inspections, re-rig and/or do a more detailed inspection of the elevator control system;

—If the airplane does pass the initial control column sweep and stop bolt length inspections, do a more detailed inspection within 100 hours time-in-service (TIS); and

—Report the results of the initial inspection and the 100-hour TIS inspection (if applicable).

Why Is it Important to Publish This AD?

The FAA found that immediate corrective action was required, that notice and opportunity for prior public comment were impracticable and contrary to the public interest, and that good cause existed to make the AD effective immediately by individual letters issued on January 27, 2003, to all known U.S. operators of Raytheon Beech Models 1900, 1900C, and 1900D airplanes. These conditions still exist, and the AD is published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

Comments Invited

How Do I Comment on This AD?

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, FAA invites your comments on the rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date specified above.

We may amend this rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether we need to take additional rulemaking action.

Are There any Specific Portions of the AD I Should pay Attention to?

We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this AD.

How Can I Be Sure FAA Receives my Comment?

If you want us to acknowledge the receipt of your written comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2003–CE–07–AD.'' We will date stamp and mail the postcard back to you.

Regulatory Impact

Does This AD Impact Various Entities?

These regulations 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, FAA has determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–03–18 Raytheon Aircraft Company: Amendment 39–13043; Docket No. 2003–CE–07–AD.

(a) *What airplanes are affected by this AD?* This AD applies to Beech Models 1900, 1900C, and 1900D airplanes, all serial numbers, that are certificated in any category.

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct any mis-rigged elevator control system, which could lead to insufficient elevator control authority and loss of control of the airplane.

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

Actions	Compliance	Procedures
(1) Perform a control column sweep inspection to verify full elevator travel to the primary up and down stops. Accomplish this inspection using the following procedures: (i) Remove the aft fairing from the vertical stabilizer to gain visual access to surface stop bolts on the elevator control horn support using the applicable Raytheon Aircraft Company 1900/1900C or 1900D maintenance manual. (ii) Have another appropriately-rated maintenance person perform a full pitch-down to full pitch-up control column sweep. Visually ensure that the elevator control horns contact the surface stop bolts for both the full pitch-down and full pitch-up control column positions. (iii) Measure the length of both elevator down stop bolts from the crown of the bolt head to the face of the elevator lower stop bolt support. (A) If the dimension of each stop bolt is equal to or less than 1.00 inch, the bolts are acceptable for the purposes of this inspection. (B) If the dimension of either stop bolt is greater than 1.00 inch, accomplish (prior to further flight) the travel board inspection procedures as specified in paragraph (d)(3)(i) of this AD. If it passes the procedure specified in paragraph (d)(3)(i), the bolt is acceptable even though it exceeds 1.00 inch.	Initially inspect within 4 days after February 5, 2003 (the effective date of this AD), except that this action was required no later than January 31, 2003, for those who received emergency AD 2003–03–18. If necessary, accomplish the travel board inspection prior to further flight after the inspection required by paragraph (d)(1)(iii)(B) of this AC.	In accordance with the applicable Raytheon Aircraft Company 1900/1900C or 1900D maintenance manual.

Actions	Compliance	Procedures
(2) If the airplane does not pass the control column sweep inspection or bolt length requirements of paragraphs (d)(1)(ii), (d)(1)(iii), or (d)(3)(i) of this AD. (i) Accomplish the elevator control system rigging procedure in accordance with the applicable Raytheon Aircraft Company 1900/1900C or 1900D maintenance manual. Do not reinstall the aft fairing because access to the surface stop bolts is still necessary; (ii) Perform a control column sweep inspection by accomplishing the actions in paragraphs (d)(1)(ii), (d)(3)(i), and (d)(3)(ii) of this AD. These actions are also referenced in paragraph (d)(4) of this AD; and (iii) When the airplane passes the requirements of the above inspection, replace the aft fairing.	Prior to further flight after the applicable inspection required by paragraphs (d)(1), (d)(3), and (d)(4) of this AD.	In accordance with the applicable Raytheon Aircraft Company 1900/1900C or 1900D maintenance manual.
(3) If the airplane passes the inspection of paragraph (d)(1) of this AD, replace (prior to further flight) the aft fairing; and accomplish (d)(3)(i) of this AD within 100 hours TIS and any necessary actions prior to further flight after that as specified in paragraphs (d)(3)(ii) of this AD: (i) Utilizing elevator travel boards, inspect to ensure that the surface stops on the control horn support allow the following: (A) Up elevator travel of 20 degrees, +1 degree −0 degree; and (B) Down elevator travel of 14 degrees, +1 degree −0 degree. (ii) If the airplane does not pass the inspection required by paragraph (d)(3)(i) of this AD, accomplish (prior to further flight) the elevator control system rigging procedures as specified in paragraphs (d)(2)(i), (d)(2)(ii), and (d)(3)(i) of this AD.	Replace the aft fairing prior to further flight after the applicable inspection required by paragraphs (d)(1), (d)(3), and (d)(4) of this AD. Unless accomplished per paragraph (d)(1)(iii)(B) of this AD, accomplish the travel board inspection within 100 hours TIS after the initial inspection required by paragraph (d)(1) of this AD. Accomplish any necessary re-rigging prior to further flight after the inspection required by this AD.	In accordance with the applicable Raytheon Aircraft Company 1900/1900C or 1900D maintenance manual.
(4) Perform a control column sweep inspection by accomplishing the actions of paragraphs (d)(1)(i), (d)(1)(ii), (d)(2), (d)(3)(i), and (d)(3)(ii) of this AD. If the aft fairing is already removed, the actions of paragraphs (d)(1)(i) are not required.	Prior to further flight after each time the elevator control system is re-rigged. Examples of items that require re-rigging include, but are not limited to, changing the tension on the elevator primary control cables and replacing the elevator control system components such as cables, pulleys, push-pull tubes, and bellcranks.	In accordance with the applicable Raytheon Aircraft Company 1900/1900C or 1900D maintenance manual.
(5) Report the results of the initial inspection required by paragraph (d)(1) of this AD and the initial travel board inspection required by paragraph (d)(3)(i) of this AD. Break out the results of the control column sweep inspection, bolt length measurement, and the travel board inspection. Along with the results, include the airplane model, serial number, and the number of hours TIS at the time of inspection. Label the document ''Inspection results of AD 2003–03–18''.	Within 10 days after the initial inspections required by paragraph (d)(1) or (d)(3)(i) of this AD.	Submit the results to the Raytheon Aircraft Company, 9709 E. Central, Wichita Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140; facsimile; (316) 676–8051; e-mail: *tom_peay@raytheon.com.*

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

Note: 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 Paul DeVore, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4142; facsimile: (316) 946–4407.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under 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 provided the following is adhered to:

(1) When re-rigging is required, operate the airplane with crew only and no cargo.

(2) All special flight permits must be coordinated with the Wichita ACO at the address, phone number, and facsimile number specified in paragraph (f) of this AD.

(h) *Where can I view information related to this AD?* You may view information related to this AD at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

(i) *When does this AD become effective?* This AD becomes effective February 5, 2003, to all affected persons who did not receive emergency AD 2003–03–18, issued January 27, 2003. Emergency AD 2003–03–18 contained the requirements of this amendment and became effective immediately upon receipt and required the actions no later than January 31, 2003 (4 days after distribution).

Issued in Kansas City, Missouri, on January 30, 2003.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–2784 Filed 2–4–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. 97P–0313]

Medical Devices; Reclassification and Codification of Fully Automated Short-Term Incubation Cycle Antimicrobial Susceptibility Devices From Class III to Class II

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is reclassifying the fully automated short-term incubation cycle antimicrobial susceptibility device for use in determining in vitro susceptibility of bacterial pathogens isolated from clinical specimens from class III to class II (special controls). The special control that will apply to this device is a guidance document entitled ''Class II Special Controls Guidance Document: Antimicrobial Susceptibility Test (AST) Systems; Guidance for Industry and FDA.'' The agency is also announcing that it has issued an order in the form of a letter to BioMerieux Vitek, Inc., reclassifying the device. The agency is classifying this device into class II because special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device and there is sufficient information to establish special controls.

DATES: This rule is effective May 6, 2003.

FOR FURTHER INFORMATION CONTACT: Freddie M. Poole, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2096.

SUPPLEMENTARY INFORMATION:

I. Background (Regulatory Authorities)

The Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 *et seq.*), as amended by the Medical Device Amendments of 1976 (the 1976 amendments) (Public Law 94–295), the Safe Medical Devices Act of 1990 (the SMDA) (Public Law 101–629), and the Food and Drug Administration Modernization Act of 1997 (the FDAMA) (Public Law 105–115), established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under the 1976 amendments, class II devices were defined as devices for which there is insufficient information to show that general controls themselves will assure safety and effectiveness, but for which there is sufficient information to establish performance standards to provide such assurance. The SMDA broadened the definition of class II devices to mean devices for which there is insufficient information to show that general controls themselves will assure safety and effectiveness, but for which there is sufficient information to establish special controls to provide such assurance, including performance standards, postmarket surveillance, patient registries, development and dissemination of guidance, recommendations, and any other appropriate actions the agency deems necessary (section 513(a)(1)(B) of the act).

Under section 513 of the act, devices that were in commercial distribution before May 28, 1976 (the date of enactment of the 1976 amendments), generally referred to as preamendments devices, are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976, generally referred to as postamendments devices, are classified automatically by statute (section 513(f) of the act) into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval, unless and until: (1) The device is reclassified into class I or II; (2) FDA issues an order classifying the device into class I or II in accordance with new section 513(f)(2) of the act, as amended by the FDAMA; or (3) FDA issues an order finding the device to be substantially equivalent, under section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously offered devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and part 807 of the regulations (21 CFR part 807).

A preamendments device that has been classified into class III may be marketed, by means of premarket notification procedures, without submission of a premarket approval application (PMA) until FDA issues a final regulation under section 515(b) of the act (21 U.S.C. 360e(b)) requiring premarket approval.

Reclassification of postamendments devices is governed by section 513(f)(3) of the act, formerly section 513(f)(2) of the act. This section provides that FDA may initiate the reclassification of a device classified into class III under section 513(f)(1) of the act, or the manufacturer or importer of a device may petition the Secretary of Health and Human Services (the Secretary) for the issuance of an order classifying the device in class I or class II. FDA's regulations in § 860.134 (21 CFR 860.134) set forth the procedures for the filing and review of a petition for reclassification of such class III devices. In order to change the classification of the device, it is necessary that the proposed new class have sufficient regulatory controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use.

The FDAMA added a new section 513(f)(2) to the act which addresses classification of postamendments devices. New section 513(f)(2) of the act

provides that, upon receipt of a ''not substantially equivalent'' determination, a 510(k) applicant may request FDA to classify a postamendments device into class I or class II. Within 60 days from the date of such a written request, FDA must classify the device by written order. If FDA classifies the device into class I or II, the applicant has then received clearance to market the device and it can be used as a predicate device for other 510(k)s. It is expected that this process will be used for low risk devices. This process does not apply to devices that have been classified by regulation into class III, i.e., preamendments class III devices, or class III devices for which a PMA is appropriate.

Under section 513(f)(3)(B)(i) of the act, formerly section 513(f)(2)(B)(i) of the act, the Secretary may, for good cause shown, refer a petition to a device classification panel. If a petition is referred to a panel, the panel shall make a recommendation to the Secretary respecting approval or denial of the petition. Any such recommendation shall contain: (1) A summary of the reasons for the recommendation, (2) a summary of the data upon which the recommendation is based, and (3) an identification of the risks to health (if any) presented by the device with respect to which the petition was filed.

II. Recommendation of the Panel

On July 2, 1997, FDA filed the reclassification petition submitted by BioMerieux Vitek, Inc., requesting reclassification of the fully automated short-term incubation cycle antimicrobial susceptibility devices from class III to class II. FDA consulted with the Microbiology Devices Panel (the panel). During an open public meeting on February 13, 1998, the panel unanimously recommended that FDA reclassify the fully automated short-term incubation cycle antimicrobial susceptibility device for use in determining in vitro susceptibility of bacterial pathogens isolated from clinical specimens from class III to class II. The panel identified the risks to health regarding use of this device as the reporting of erroneous results, citing that insufficient testing of each unique antimicrobial agent with an inappropriate clinical and challenge organism, the use of an uncalibrated inoculum, or a nonstandardized acceptable error endpoint can result in such erroneous reports.

FDA considered the panel's recommendations and tentatively agreed that the generic type of device, the fully automated short-term incubation cycle antimicrobial susceptibility device for use in determining in vitro susceptibility of bacterial pathogens isolated from clinical specimens, be reclassified from class III to class II. Subsequently, in the **Federal Register** of March 8, 2000 (65 FR 12268), FDA issued a notice of the panel's recommendation for public comment.

After reviewing the information in the petition and presenting it before the panel, and after considering the panel's recommendation and the comments received in response to the notice of panel recommendation, FDA issued an order to the petitioner on December 28, 2001, reclassifying the fully automated short-term incubation cycle antimicrobial susceptibility device and substantially equivalent devices of this generic type, from class III to class II with the implementation of special controls. The special control applicable to this generic type of device is a guidance document entitled ''Class II Special Controls Guidance Document: Antimicrobial Susceptibility Test (AST) Systems; Guidance for Industry and FDA.'' FDA has identified the administration of an inappropriate antimicrobial agent to the patient as the risk to health associated with use of this device. The guidance document contains sections that discuss the use of appropriate challenge strains; standardized preparation of inoculum; the application of ''acceptable error'' as a range with confidence intervals; and appropriate clinical performance testing. In this way, the guidance will minimize the sources of erroneous reporting associated with the fully automated short-term incubation cycle antimicrobial susceptibility device. Testing and labeling recommendations are also discussed in the guidance document and also help manufacturers address the risk to health. Following the effective date of this final classification rule, any firm submitting a 510(k) premarket notification for a fully automated short-term incubation cycle antimicrobial susceptibility device will need to address the issues covered in the special control guidance. However, the firm need only show that its device meets the recommendations of the guidance or in some other way provides equivalent assurances of safety and effectiveness.

Accordingly, as required by § 860.134(b)(6) and (b)(7) of the regulations, FDA is announcing the reclassification of the fully automated short-term incubation cycle antimicrobial susceptibility device from class III into class II. FDA is codifying the reclassification and the special control guidance by adding new § 866.1645. For the convenience of the reader, FDA is also adding a new § 866.1(e) to inform the reader where to find guidance documents referenced in 21 CFR part 866.

III. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that this reclassification 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.

IV. Analysis of Impacts

FDA has examined the impacts of the notice under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4)). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety and other advantages, distributive impacts, and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive order. In addition, the final rule is not a significant regulatory action as defined by the Executive order and so is not subject to review under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Reclassification of the device from class III to class II will relieve all manufacturers of the device of the cost of complying with the premarket approval requirements in section 515 of the act. Because reclassification will reduce regulatory costs with respect to this device, it will impose no significant economic impact on any small entities, and it may permit small potential competitors to enter the marketplace by lowering their costs. The agency therefore certifies that this rule will not have a significant economic impact on a substantial number of small entities. In addition, this rule will not impose costs of $110 million or more on either the private sector or State, local, and tribal governments in the aggregate, and therefore a summary statement or analysis pursuant to section 202(a) of the Unfunded Mandates Reform Act of 1995 is not required.

V. Federalism

FDA has analyzed this final rule in accordance with the principles set forth

in Executive Order 13132. FDA has determined that the rule does not contain policies 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. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the order and, consequently, a federalism summary impact statement is not required.

VI. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects in 21 CFR Part 866

Biologics, Laboratories, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 866 is amended as follows:

PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

1. The authority citation for 21 CFR part 866 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 866.1 is amended by adding paragraph (e) to read as follows:

§ 866.1 Scope.

* * * * *

(e) Guidance documents referenced in this part are available on the Internet at *http:www.fda.gov/cdrh.guidance.html.*

3. Section 866.1645 is added to subpart B to read as follows:

§ 866.1645 Fully automated short-term incubation cycle antimicrobial susceptibility system.

(a) *Identification.* A fully automated short-term incubation cycle antimicrobial susceptibility system is a device that incorporates concentrations of antimicrobial agents into a system for the purpose of determining in vitro susceptibility of bacterial pathogens isolated from clinical specimens. Test results obtained from short-term (less than 16 hours) incubation are used to determine the antimicrobial agent of choice to treat bacterial diseases.

(b) *Classification.* Class II (special controls). The special control for this device is FDA's guidance document entitled ''Class II Special Controls Guidance Document: Antimicrobial Susceptibility Test (AST) Systems; Guidance for Industry and FDA.''

Dated: January 9, 2003.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 03–2656 Filed 2–4–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has determined that USS HOWARD (DDG 83) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: August 8, 2002.

FOR FURTHER INFORMATION CONTACT: Captain Richard T. Evans, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374–5066, Telephone number: (202) 685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS HOWARD (DDG 83) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead lights; and Annex I, paragraph 2(f)(i), pertaining to the placement of the masthead light or lights above and clear of all other lights and obstructions. The Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

2. Table Four, Paragraph 16 of § 706.2 is amended by revising the following entry for USS HOWARD:

§ 706.2 Certifications of the Secretary of the Navy Under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Obstruction angle relative ship's headings
* * * * *	*	*
USS HOWARD	DDG 83	109.11 thru 112.50°
* * * * *	*	*

3. Table Five of § 706.2 is amended by revising the following entry for USS HOWARD:

§ 706.2 Certifications of the Secretary of the Navy Under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than 1/2 ship's length aft of forward masthead light. Annex I, sec. 3(a)	Percentage horizontal separation attained
* * *	*	*	*	*	*
USS HOWARD	DDG 83	X	X	X	14.6
* * *	*	*	*	*	*

Dated: August 8, 2002.

Richard T. Evans,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).

[FR Doc. 03–2636 Filed 2–4–03; 8:45 am]

BILLING CODE 3810–FF–U

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has determined that USS PREBLE (DDG 88) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: May 31, 2002.

FOR FURTHER INFORMATION CONTACT: Captain Richard T. Evans, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374–5066, Telephone number: (202) 685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS PREBLE (DDG 88) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead lights; Annex I, paragraph 3(c), pertaining to placement of task lights not less than two meters from the fore and aft centerline of the ship in the athwartship direction; Annex I, paragraph 2(f)(i), pertaining to the placement of the masthead light or lights above and clear of all other lights and obstructions; and Annex I, paragraph 2(f)(ii), pertaining to the vertical placement of task lights. The Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

2. Table Four, Paragraph 15 of § 706.2 is amended by adding, in numerical order, the following entry for USS PREBLE:

§ 706.2 Certifications of the Secretary of the Navy Under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
* * * * *	*	*
USS PREBLE	DDG 88	1.93 meters
* * * * *	*	*

3. Table Four, Paragraph 16 of § 706.2 is amended by adding, in numerical order, the following entry for USS PREBLE:

§ 706.2 Certifications of the Secretary of the Navy Under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Obstruction angle relative ship's headings
* * * * *	*	*
USS PREBLE	DDG 88	109.20 thru 112.50°
* * * * *	*	*

4. Table Five of § 706.2 is amended by adding, in numerical order, the following entry for USS PREBLE:

§ 706.2 Certifications of the Secretary of the Navy Under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. 3(a)	Percentage horizontal separation attained
* * * * *	*	*	*	*	*
USS PREBLE	DDG 88	X	X	X	14.7
* * * * *	*	*	*	*	*

Dated: May 31, 2002.

Richard T. Evans,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).

[FR Doc. 03–2637 Filed 2–4–03; 8:45 am]

BILLING CODE 3810–FF–U

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has determined that USS MUSTIN (DDG 89) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: December 17, 2002.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Dominick G. Yacono, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374–5066. Telephone number: (202) 685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS MUSTIN (DDG 89) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead lights; Annex I, paragraph 3(c), pertaining to placement of task lights not less than two meters from the fore and aft centerline of the ship in the athwartship direction; Annex I, paragraph 2(f)(i), pertaining to the placement of the masthead light or lights above and clear of all other lights and obstructions; and Annex I, paragraph 2(f)(ii), pertaining to the vertical placement of task lights. The Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

2. Table Four, paragraph 15 of § 706.2 is amended by adding, in numerical

order, the following entry for USS MUSTIN:

§ 706.2 Certifications of the Secretary of the Navy Under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
* * * * *	*	*
USS MUSTIN	DDG 89	1.93 meters
* * * * *	*	*

3. Table Four, paragraph 16 of § 706.2 is amended by adding, in numerical order, the following entry for USS MUSTIN:

§ 706.2 Certifications of the Secretary of the Navy Under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Obstruction angle relative ship's headings
* * * * *	*	*
USS MUSTIN	DDG 89	107.83 thru 112.50°
* * * * *	*	*

4. Table Five of § 706.2 is amended by adding, in numerical order, the following entry for USS MUSTIN:

§ 706.2 Certifications of the Secretary of the Navy Under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. 3(a)	Percentage horizontal separation attained
* * *	*	*		*	*
USS MUSTIN	DDG 89	X	X	X	14.4
* * *	*	*		*	*

Dated: December 17, 2002.

D.G. Yacono,

Lieutenant Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).

[FR Doc. 03–2638 Filed 2–4–03; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has determined that USS BULKELEY (DDG 84) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: June 13, 2002.

FOR FURTHER INFORMATION CONTACT: Captain Richard T. Evans, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374–5066. Telephone number: (202) 685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS BULKELEY (DDG 84) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead

lights; and Annex I, paragraph 2(f)(i), pertaining to the placement of the masthead light or lights above and clear of all other lights and obstructions. The Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

2. Table Four, paragraph 16 of § 706.2 is amended by revising the following entry for USS BULKELEY:

§ 706.2 Certifications of the Secretary of the Navy Under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Obstruction angle relative ship's headings
* * * * *	*	*
USS BULKELEY	DDG 84	109.60 thru 112.50°
* * * * *	*	*

3. Table Five of § 706.2 is amended by revising the following entry for USS BULKELEY:

§ 706.2 Certifications of the Secretary of the Navy Under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
* * *	*	*		*	*
USS BULKELEY	DDG 84	X	X	X	14.7
* * *	*	*		*	*

Dated: June 13, 2002.

Richard T. Evans,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).

[FR Doc. 03–2639 Filed 2–4–03; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law) has determined that USS MASON (DDG 87) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: October 11, 2002

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander, Dominick G. Yacono, JAGC, U.S. Navy Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374–5066, Telephone number: (202) 685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS MASON (DDG 87) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 2(f)(i) pertaining to placement of the masthead light or lights above and clear of all other lights and obstructions, Annex I paragraph 2(f)(ii) pertaining to the vertical placement of the task lights, Annex I paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead lights, and Annex I paragraph 3(c) pertaining to the horizontal placement of the task lights. The Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law) has also certified that the

lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

2. Table Four, Paragraph 15 of § 706.2 is amended by adding, in numerical order, the following entry for USS MASON:

§ 706.2 Certifications of the Secretary of the Navy Under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
* * *	*	* * *
USS MASON	DDG 87	1.87 meters
* * *	*	* * *

3. Table Four, Paragraph 16 of § 706.2 is amended by adding, in numerical order, the following entry for USS MASON:

§ 706.2 Certifications of the Secretary of the Navy Under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Obstruction angle relative ship's headings
* * *	*	* * *
USS MASON	DDG 87	108.03 thru 112.50°
* * *	*	* * *

4. Table Five of § 706.2 is amended by adding, in numerical order, the following entry for USS MASON:

§ 706.2 Certifications of the Secretary of the Navy Under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
* * * *	*	*	*	*	
USS Mason	DDG 87	X	X	X	14.5
* * * *	*	*	*	*	

Dated: October 11, 2002.

Dominick G. Yacono,

Lieutenant Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).

[FR Doc. 03–2635 Filed 2–4–03; 8:45 am]

BILLING CODE 3810–FF–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–03–003]

Drawbridge Operation Regulations: Cheesequake Creek, NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the New Jersey Transit Rail Operations (NJTRO) railroad bridge, mile 0.2, across Cheesequake Creek, at Morgan, South Amboy, New Jersey. Under this temporary deviation the

bridge may remain closed to vessel traffic from February 3, 2003, through February 16, 2003. This temporary deviation is necessary to facilitate repairs at the bridge.

DATES: This deviation is effective from February 3, 2003, through February 16, 2003.

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

SUPPLEMENTARY INFORMATION: The NJTRO railroad bridge has a vertical clearance in the closed position of 3 feet at mean high water and 8 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.709(b).

The bridge owner, New Jersey Transit Rail Operations, requested a temporary deviation from the drawbridge operation regulations to facilitate necessary maintenance, the refurbishment of the electrical controls, at the bridge. The bridge must remain in the closed position to perform these repairs. Vessels that can pass under the bridge without a bridge opening may do so at all times.

The waterway users who normally navigate Cheesequake Creek are predominantly recreational vessels. The proposed time period is historically the time period during which the fewest requests are made to open the bridge. The Coast Guard coordinated this closure with the mariners who normally use this waterway to help facilitate this necessary bridge repair and to minimize any disruption to the marine transportation system.

Under this temporary deviation the NJTRO railroad bridge may remain closed to vessel traffic from 8 a.m. on February 3, 2003, through 4 p.m. on February 16, 2003. The bridge shall open upon a four-hour advance notice for emergency situations.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: January 24, 2003.

Vivien S. Crea,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 03–2697 Filed 2–4–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD05–03–007]

RIN 2115–AA97

Security Zone: Chesapeake Bay, Elizabeth River, Port of Hampton Roads, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a security zone encompassing the grounds, piers and waterside of Norfolk International Terminals, Norfolk, Virginia. This zone is needed to prevent destruction, loss, or injury to military equipment and supplies while military operations are being carried out at Norfolk International Terminals. The Captain of the Port, Hampton Roads, Virginia will enforce a security zone consisting of the Norfolk International Terminals property enclosed within the perimeter fence and extending westerly from the shoreline at position 36° – 56.001′ North latitude, 76° – 19.726′ West longitude to a point at 36° – 55.996′ North latitude, 76° – 20.152′ West longitude, thence southerly to a point at 36° – 54.762′ North latitude, 76° – 20.244′ West longitude, then southeasterly to a point at 36° – 53.854′ North latitude, 76° – 20.093′ West longitude, then to the shoreline at position 36° – 54.216′ North latitude, 76° – 19.481′ West longitude. Individuals or vessels will not be allowed to enter the security zone at Norfolk International Terminals, except as permitted by the Captain of the Port or his designated representative. Movement of individuals and vehicles within Norfolk International Terminals may be restricted or prohibited.

DATES: This section is effective from 5 a.m. January 28, 2003 to 11:59 p.m. February 4, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD05–03–007 and are available for inspection or copying at USCG Marine Safety Office Hampton Roads, 200 Granby Street, Suite 700, Norfolk, Virginia, 23510, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Mike Dolan, project officer, USCG Marine Safety Office Hampton Roads, telephone number (757) 668–5590.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b) (B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM, which would incorporate a comment period before a final rule was issued, would be contrary to the public interest since immediate action is needed to prevent destruction, loss or injury to resources involved in the military operations taking place in the vicinity of the Norfolk International Terminals.

Discussion of Rule

A security zone is being established encompassing the grounds, piers and waterside of Norfolk International Terminals, Norfolk, Virginia from 5 a.m. January 28, 2003 until 11:59 p.m. February 4, 2003. This zone is needed to safeguard materials and persons in the vicinity from sabotage or other subversive acts, accidents, or other causes of a similar nature while military operations are being conducted. This security zone will encompass the Virginia Port Authority property known as Norfolk International Terminals, at 7737 Hampton Blvd, Norfolk, Virginia, 23505, including all property that is enclosed by the perimeter fence. The security zone will also include the waters of the Elizabeth River in proximity to Norfolk International Terminals, as bounded by a line extending westerly from the shoreline at position 36° – 56.001′ North latitude, 76° – 19.726′ West longitude to a point at 36° – 55.996′ North latitude, 76° – 20.152′ West longitude, thence southerly to a point at 36° – 54.762′ North latitude, 76° – 20.244′ West longitude, then southeasterly to a point at 36° – 53.854′ North latitude, 76° – 20.093′ West longitude, then to the shoreline at position 36° – 54.216′ North latitude, 76° – 19.481′ West longitude. The security zone will be enforced from 5 a.m. January 28, 2003 until 11:59 p.m. February 4, 2003. U.S. Coast Guard personnel will be on scene at all times while the security zone is in effect. U.S. Coast Guard vessels will enforce the security zone over the water whenever a vessel involved in the military operation is inside the security zone. Commercial and recreational boats will not be permitted to enter the security zone, except as permitted by the Captain of the Port.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory

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

Although this regulation restricts access to the regulated area, the effect of this regulation will not be significant because: (i) The COTP may authorize access to the security zone; (ii) the security zone will be in effect for a limited duration; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. section 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit or anchor within the security zone established at Norfolk International Terminals, from 5 a.m. January 28, 2003 until 11:59 p.m. February 4, 2003.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have considered the environmental impact of this rule and concluded that under Figure 2–1, Paragraph (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. This rule is less than one week in duration.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and Record Keeping Requirements, Security measures, Vessels, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T05–007, to read as follows:

§ 165.T05–007 Security Zone: Chesapeake Bay, Elizabeth River, Port of Hampton Roads, Virginia.

(a) Location: The following area is a security zone: The grounds of the Norfolk International Terminals, Norfolk, Virginia, enclosed by a fence surrounding the perimeter, and the waters of the Elizabeth River in proximity to Norfolk International Terminals, as encompassed by a line

drawn westerly from the shoreline at position 36° – 56.001′ North latitude, 76° – 19.726′ West longitude to a point at 36° – 55.996′ North latitude, 76° – 20.152′ West longitude, thence southerly to a point at 36° – 54.762′ North latitude, 76° – 20.244′ West longitude, then southeasterly to a point at 36° – 53.854′ North latitude, 76° – 20.093′ West longitude, then to the shoreline at position 36° – 54.216′ North latitude, 76° – 19.481′ West longitude.

(b) Definitions: The designated representative of the Captain of the Port is any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf.

(1) The Captain of the Port, Hampton Roads and the Command Duty Officer at the Marine Safety Office, Norfolk, Virginia can be contacted at telephone Number (757) 668–5555.

(2) The Coast Guard vessels enforcing the security zone can be contacted on VHF—FM channels 13 and 16.

(c) Regulation: (1) In accordance with the general regulations in 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads, Virginia, or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this security zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign.

(d) Effective date: This section is effective from 5 a.m. January 28, 2003 until 11:59 p.m. February 4, 2003.

Dated: January 28, 2003.

Lawrence M. Brooks,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.

[FR Doc. 03–2695 Filed 2–4–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0308; FRL–7287–2]

6-Benzyladenine; Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a temporary exemption from the requirement of a tolerance for residues of the biochemical pesticide 6-benzyladenine on apples and pistachios when applied/used in accordance with the Experimental Use Permit 73049-EUP-2. Valent BioSciences Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting the temporary tolerance exemption. This regulation eliminates the need to establish a maximum permissible level for residues of 6-benzyladenine. The temporary tolerance exemption will expire on January 31, 2005.

DATES: This regulation is effective February 5, 2003. Objections and requests for hearings, identified by docket ID number OPP–2002–0308, must be received by EPA on or before April 7, 2003.

ADDRESSES: Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VIII. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Denise Greenway, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8263; e-mail address: greenway.denise@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)
- Antimicrobial pesticides (NAICS 32561)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2002–0308. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at http://www.epa.gov/edocket/ to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background and Statutory Findings

In the **Federal Register** of March 28, 2002 (67 FR 14948) (FRL–6828–9), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104–170), announcing the filing of a pesticide tolerance petition (PP 2G6378)

by Valent BioSciences Corporation, 870 Technology Way, Suite 100, Libertyville, IL 60048. This notice included a summary of the petition prepared by the petitioner Valent BioSciences Corporation. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR part 180 be amended to expand the existing tolerance exemption by establishing a temporary exemption from the requirement of a tolerance for residues of 6-benzyladenine.

Section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....'' Additionally, section 408(b)(2)(D) of the FFDCA requires that the Agency consider available information concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The toxicological profile for 6-benzyladenine has been previously published by the Agency in the N6-Benzyladenine (synonymous with the subject active ingredient, 6-benzyladenine) Reregistration Eligibility Decision (RED) document of June 1994 (Ref. 1). The summarized values and categories for the various studies for the technical active ingredient are presented here.

1. *Acute toxicity*. Toxicity Category III was assigned to the acute oral toxicity study in the rat (LD_{50} = 1.3 grams/kilogram (g/kg)), and in the eye irritation study in the rabbit (moderate irritant). Toxicity Category IV was assigned to the acute dermal toxicity study in the rabbit (LD_{50} > 5 g/kg), the acute inhalation toxicity study in the rat (LC_{50} = 5.2 milligrams/liter (mg/L)), and in the dermal irritation study in the rabbit (slight irritant). Additionally, from a dermal sensitization study in the guinea pig, it was determined that N6-benzyladenine is not a dermal sensitizer.

2. *Genotoxicity*. From three mutagenicity studies (Ames test, mouse micronucleus assay, and unscheduled DNA synthesis assay in the rat), it was determined that N6-benzyladenine is not mutagenic.

3. *Developmental toxicity*. The no observed adverse effect levels (NOAEL) and the lowest observed adverse effect levels (LOAEL) for maternal and developmental toxicity in rats, respectively, were found to be 50 and 175 mg/kg of body weight (bwt)/day, respectively.

4. *Subchronic toxicity*. For rats of both sexes, the NOAEL was approximately 111 mg/kg of bwt/day and the LOAEL was approximately 304 mg/kg of bwt/day.

IV. Aggregate Exposures

In examining aggregate exposure, section 408 of the FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

1. *Food*. Apple and pistachio field trials performed in support of the temporary tolerance exemption request and the associated experimental use permit yielded acceptable magnitude of the residue data (Ref. 2). Residues were below the limit of quantitation (LOQ) for pistachios treated with a total of 60 g of active ingredient (a.i.) per acre. In apples, residues of 6-benzyladenine were consistently near the LOQ. However, residues did not increase in processed commodities (relative to the levels on the raw commodity), and were below the LOQ. Thus, the apple field data are adequate to support the temporary tolerance exemption petition and experimental program to apply ≤182 grams of active ingredient per acre per season. Also, because application precedes harvest by 2 months for pistachio and by approximately 2.5 months for apple, the potential for dietary exposure is reduced.

Due to the low anticipated dietary intake of 6-benzyladenine residues relative to the chronic and acute population adjusted doses (see Unit VI, below), and the fact that actual exposure will probably be considerably less because the dietary exposure analysis was based on worst-case assumptions, it is highly unlikely that the proposed new uses of 6-benzyladenine on apples and pistachios will result in adverse effects to human health.

2. *Drinking water exposure*. The proposed uses on apples and pistachios are not expected to add potential exposure to drinking water. Soil leaching studies have suggested that 6-benzyladenine is relatively immobile (Ref. 3), absorbing to sediment. Residues reaching surface waters from field runoff should quickly absorb to sediment particles and be partitioned from the water column. 6-Benzyladenine also has low solubility in water, 76 ± 2 mg/L at 20° C (Ref. 2), and detections in ground water are not expected. Together, these data indicate that residues are not expected in drinking water.

B. Other Non-Occupational Exposure

The potential for non-dietary exposure to 6-benzyladenine residues for the general population, including infants and children, is unlikely because the uses are limited to experimental applications in apple and pistachio orchards. Because 6-benzyladenine is a naturally occurring cytokinin plant regulator (Ref. 4, 5, 6, 7, and 8), it is a normal part of the human diet. The proposed experimental use rates are well below the toxicity NOAELs. The residues indicate dietary exposures that are 0.03% and 0.01% of the chronic and acute population adjusted doses, respectively. Therefore, while there exists a great likelihood of prior exposure for most, if not all, individuals to 6-benzyladenine, any increased exposure due to the proposed

experimental product would be negligible due to the lack of residue in comparison with the toxicity NOAELs.

V. Cumulative Effects

The Agency has considered the cumulative effects of 6-benzyladenine and other substances in relation to a common mechanism of toxicity. These considerations include the possible cumulative effects of such residues on infants and children. Based on the available information and data for 6-benzyladenine, no mammalian toxicity is expected at the proposed experimental use rates. Therefore, no cumulative effects are expected.

VI. Determination of Safety for U.S. Population, Infants and Children

1. *U. S. population*. The analysis estimated that the chronic exposures for the overall U.S. population was 0.000014 mg/kg/day (0.03% of the chronic population adjusted dose (cPAD)). The acute dietary estimated exposure was 0.000069 mg/kg/day (0.01% of the acute population adjusted dose (aPAD)) for the overall U.S. population. Critical exposure commodity analysis showed that apple juice contributed the most to dietary exposure for the overall population. Due to the low anticipated dietary intake of 6-benzyladenine residues relative to the chronic and acute population adjusted doses, and the fact that actual exposure will probably be considerably less because the dietary exposure analysis was made based on worst-case assumptions, it is likely that the proposed new uses of 6-benzyladenine on apples and pistachios will not result in adverse effects to human health.

2. *Infants and children*. The analysis estimated that the chronic exposures for the most highly exposed subgroup, non-nursing infants, was 0.000085 mg/kg/day (0.2% of the cPAD). The acute dietary estimated exposure was 0.000361 mg/kg/day (0.07% of aPAD) for the most highly exposed subgroup, non-nursing infants. Critical exposure commodity analysis showed that apple juice contributed the most to dietary exposure for all infants. Due to the low anticipated dietary intake of 6-benzyladenine residues relative to the chronic and acute PAD, and the fact that actual exposure will probably be considerably less because the dietary exposure analysis was made based on worst-case assumptions, it is likely that the proposed new uses of 6-benzyladenine on apples and pistachios will not result in adverse effects to human health.

VII. Other Considerations

A. Endocrine Disruptors

EPA is required under the FFDCA as amended by FQPA to develop a screening program to determine whether certain substances (including all pesticide active and other ingredients) ''may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or other such endocrine effects as the Administrator may designate.'' Following the recommendations of its Endocrine Disruptor Screening and Testing Advisory Committee (EDSTAC), EPA determined that there is no scientific basis for including, as part of the program, the androgen and thyroid hormone systems in addition to the estrogen hormone system. EPA also adopted EDSTAC's recommendation that the program include evaluations of potential effects in wildlife. For pesticide chemicals, EPA will use FIFRA and, to the extent that effects in wildlife may help determine whether a substance may have an effect in humans, FFDCA authority to require wildlife evaluations. As the science develops and resources allow, screening of additional hormone systems may be added to the Endocrine Disruptor Screening Program (EDSP). When the appropriate screening and/or testing protocols being considered under the Agency's EDSP have been developed, 6-benzyladenine may be subjected to additional screening and/or testing to better characterize effects related to endocrine disruption.

Based on available data, no endocrine system-related effects have been identified with consumption of 6-benzyladenine. To date, there is no evidence to suggest that 6-benzyladenine affects the immune system, functions in a manner similar to any known hormone, or that it acts as an endocrine disruptor.

B. Analytical Method

The Agency is establishing a temporary exemption from the requirement of a tolerance for the reasons stated above. For the same reasons, the Agency has concluded that an analytical method is not required for enforcement purposes for 6-benzyladenine.

C. Codex Maximum Residue Level

Currently, there are no Codex, Canadian or Mexican maximum residue levels for residues of 6-benzyladenine in/on apples or pistachios.

VIII. Conclusions

Based on the toxicology information submitted and reviewed previously, and summarized in the June 1994 N6-Benzyladenine RED (Ref. 1), there is a reasonable certainty that no harm will result from aggregate exposure of residues of 6-benzyladenine to the U.S. population, including infants and children, under reasonably foreseeable circumstances, when the biochemical pesticide is used in accordance with good agricultural practices under the conditions of the 2–year experimental program. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion based on the data submitted previously and summarized in the RED, as well as that data submitted to support the temporary tolerance exemption and Experimental Use Permit applications, demonstrating negligible dietary exposure in comparison with the toxicity NOAELs. As a result, EPA establishes a temporary exemption from the tolerance requirements pursuant to FFDCA 408(c) and (d) for residues of 6-benzyladenine in or on apples and pistachios.

IX. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of the FFDCA provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old sections 408 and 409 of the FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2002–0308 in the subject line on the first page of your submission. All

requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before April 7, 2003.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Rm.104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603–0061.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VIII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by docket ID number OPP–2002–0308, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

X. References

1. U.S. EPA, Reregistration Eligibility Decision (RED) N6-Benzyladenine, June 1994.

2. U.S. EPA; Memorandum; R. S. Jones to D. Greenway; October 2, 2002.

3. Weigand, R., *et al*, Metabolism and Movement of N-[Phenylmethyl]-1H-Purin-6-Amine in Soils, 1976. Unpublished study received January 13, 1977 for EPA Registration Number 275-32; submitted by Abbott Laboratories, North Chicago, IL; CDL:095728-C.

4. Nandi, S. K., *et al*, Identification of cytokinins in primary crown gall tumours of tomato, *Plant Cell and Environment* (1989) 12:273-283.

5. Pechova, D., *et al*, Identification of new aromatic cytokinins in plants, 17th International Conference on Plant Growth Substances, July 1-6, 2001.

6. Strnad, M., *et al*, Immunodectection and identification of N^6-(o-hydroxybenzylamino) purine as a naturally occurring cytokinin in *Populus x canadensis* Moench cv *Robusta* leaves, *Plant Physiol.* (1992) 99:74-80.

7. Strnad, M., Enzyme immunoassays of N^6-benzyladenine and N^6-(meta-hydroxybenzyl)adenine cytokinins, *J Plant Growth Regul.* (1996) 15:179-188.

8. Van Staden, J. and N. R. Crouch, Benzyladenine and derivatives-their significance and interconversion in plants, *Plant Growth Regulation* (1996) 19:153-175.

XI. Statuatory and Executive Order Review

This final rule establishes an exemption from the tolerance requirement under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to 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). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

XII. Submission to Congress and the Comptroller General

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 this final rule in the **Federal Register**. This final rule is not a ''major rule '' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 16, 2003.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 374.

2. Section 180.1150 of subpart D is revised to read as follows:

§ 180.1150 6-Benzyladenine; exemption from the requirement of a tolerance.

(a) The plant growth regulator 6-benzyladenine is exempt from the requirement of a tolerance when used as a fruit-thinning agent at an application rate not to exceed 30 grams of active ingredient per acre in or on apples.

(b) 6-Benzyladenine is temporarily exempt from the requirement of a tolerance in or on apples at ≤182 grams of active ingredient per acre per season, and in or on pistachio at ≤60 grams of active ingredient per acre per season when used in accordance with the Experimental Use Permit 73049–EUP–2. The temporary exemption from a tolerance will expire on January 31, 2005.

[FR Doc. 03–2431 Filed 2–4–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0344; FRL–7289–7]

Cyprodinil; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of cyprodinil in or on the bushberry subgroup, caneberry subgroup, juneberry, lingonberry, pistachio, salal and watercress. The Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA) , as amended by the Food Quality Protection Act of 1996 (FQPA).

DATES: This regulation is effective February 5, 2003. Objections and requests for hearings, identified by docket ID number OPP–2002–0344, must be received on or before April 7, 2003.

ADDRESSES: Written objections and hearing requests may besubmitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Hoyt Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460–0001; telephone number: (703) 308–9368; e-mail address: *jamerson.hoyt@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS Code 111)
- Animal production (NAICS Code 112)
- Food manufacturing (NAICS Code 311)
- Pesticide manufacturing (NAICS Code 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be

affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2002–0344. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html*, a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at *http://www.epa.gov/opptsfrs/home/guidelin.htm*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background and Statutory Findings

In the **Federal Register** of May 1, 2002 (67 FR 21671)(FRL–6833–4), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104–170), announcing the filing of pesticide petitions (PP 2E6359, 2E6365, 2E6377 and 2E6393) by IR-4, 681 U.S. Highway #1 South, North Brunswick, NJ 08902–3390. That notice included a summary of the petitions prepared by Syngenta Crop Protection, Inc., the registrant. There were no comments received in response to the notice of filing.

The petitions requested that 40 CFR 180.532 be amended by establishing tolerances for residues of the fungicide cyprodinil, 4-cyclopropyl- 6-methyl- *N*-phenyl-2-pyrimidinamine, in or on the caneberry subgroup at 10.0 parts per million (ppm) (2E6393), watercress at 20 ppm (2E6365), pistachio at 0.07 ppm (2E6377) and the bushberry subgroup, lingonberry, juneberry, and salal, at 3.0 ppm (2E6359). IR-4 subsequently revised the petition to propose the following tolerances for cyprodinil residues in or on the caneberry subgroup at 10.0 parts per million (ppm), watercress at 20 ppm, pistachio at 0.10 ppm and the bushberry subgroup, lingonberry, juneberry, and salal, at 3.0 ppm.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for a tolerance for residues of cyprodinil on the caneberry subgroup at 10.0 parts per million (ppm), watercress at 20 ppm, pistachio at 0.10 ppm and the bushberry subgroup, lingonberry, juneberry, and salal, at 3.0 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by cyprodinil are discussed in Table 1 of this unit as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effectlevel (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90–Day oral toxicity mouse	NOAEL = 73.3/103 (male/female (m/f)) milligram/kilogram/day (mg/kg/day) LOAEL = 257/349 (m/f) mg/kg/day based on histopathological changes in the liver (m/f)
870.3100	90–Day oral toxicity rat	NOAEL = 3.14 (mg/kg/day) LOAEL = 19 mg/kg/day based on increasedtubular kidney lesions in males
870.3150	90–Day oral-toxicity - dog	NOAEL = 210/232 (m/f) mg/kg/day LOAEL = 560/581 mg/kg/day based on lowerbody-weight gains and decreased food consumption inboth sexes
870.3200	Carcinogenicity - mice	NOAEL = 16.1 mg/kg/day LOAEL = 212.4 mg/kg/day based on a dose-related increase in the incidence of focal and multifocal hyperplasia of the exocrine pancreas in males No evidence of carcinogenicity
870.3700	Prenatal developmental - rat	Maternal NOAEL = 200 mg/kg/day LOAEL = 1,000 mg/kg/day based on lower body-weight/body-weight gain and reduced food consumption Developmental NOAEL = 200 mg/kg/day LOAEL = 1,000 mg/kg/day based on lowermean fetal weights and increased incidence of delayedossification
870.3700	Prenatal developmental - rabbit	Maternal NOAEL = 150 mg/kg/day LOAEL = 400 mg/kg/day based on decreasedbody-weight gain Developmental NOAEL = 150 mg/kg/day LOAEL = 400 mg/kg/day based on slight increase of litters showing extra (13th) ribs
870.3800	Reproduction and fertility effects - rat	Parental/Systemic NOAEL = 81 mg/kg/day LOAEL = 326 mg/kg/day based on lowerbody-weights in the F_0 females during the pre-matingperiod. Reproductive/Developmental NOAEL = 81mg/kg/day LOAEL = 326 mg/kg/day based on decreasedpup weights (F_1 and F_2)
870.4100	Chronic toxicity dogs	NOAEL = 65.63/67.99 (m/f) mg/kg/day LOAEL = 449.25/446.3 (m/f) mg/kg/day based on lower body-weight gains and decreased food consumption and food efficiency
870.4300	Chronic toxicity/Carcinogenicity(feeding) - rat	NOAEL = 2.7 mg/kg/day LOAEL = 35.6 mg/kg/day based on degenerative liver lesions (spongiosis hepatis) in males No evidence of carcinogenicity
870.5265 and 870.5100	Gene Mutation	In a reverse gene mutation assay with*Salmonella typhimurium/Escherichia coli*, cyprodinil was negative up to concentrations (≥1,250 μg/plate +/-S9) that produced reproducible cytotoxicity for the majority of strains. Compound insolubility was reported at ≥313 μg/plate.
870.5300	Gene Mutation	In a Chinese hamster V79 cell HGPRT forward gene mutation assay, cyprodinil was negative up to cytotoxic concentrations (≥96.0 μg/mL with S9) (≥24 μg/mL without S9).
870.5375	Cytogenetics/*In vitro* Chromosomal Aberration	In an *in vitro* assay for chromosome aberrations in Chinese hamster ovary (CHO) cells, cyprodinil gave negative results up tocytotoxic concentrations (≥50 μg/mL without S9, 18– or 42–hour cell harvest or ≥25 μg/mL with S9, 18–hour cell harvest) or to the highest subcytotoxic concentration (50 μg/mL with S9, 42–hour cell harvest).

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.5395	Cytogenetics/*In vivo* bone marrow micronucleus	In an *in vivo* bone marrow micronucleus assay, cyprodinil was negative when administered orally (gavage) at 5,000 mg/kg(HDT) to both sexes of Tif:MAGF mice. No signs of overt toxicity or clear evidence of cytotoxicity for the target organ were noted at any dose or sacrifice time.
870.5550	Unscheduled DNA Synthesis	In an Unscheduled DNA Synthesis(UDS) assay in primary rat hepatocytes, cyprodinil was negative up to a cytotoxic concentration (80μg/mL).
870.7485	Metabolism and pharmacokinetics	Single oral doses (0.5 or 100 mg/kg bw) of phenyl or pyrimidyl-radiolabelled cyprodinil (purity ≥98%) were administered toTif:RAIf(SPF) rats, with one low-dose group receiving unlabelled cyprodinil (purity ≥99%) for 2 weeks prior to treatment with radiolabelled compound. Absorption was very rapid (tcmax= 0.3 hours) with rapid clearance (tcmax/2=1.2 hours). A minimum of 75% of the administered dose was absorbed. Excretion was rapid and almost complete, with urine as the principle route of excretion (48–68%), and >90%of the administered dose detected in the urine and feces within 48 hours. Excretion, distribution and metabolite profiles were essentially independent of dose level, pretreatment, and type of label, although there were some quantitative differences sex-dependent qualitative differences in two urinary metabolite fractions.
870.7485	Metabolism and pharmacokinetics	Excreta (Group D1 and D2) and bile (Group G1) from radiolabelled cyprodinil-treated Tif:RAIf(SPF) rats were used to characterize, isolateand identify cyprodinil metabolites. Eleven metabolites were isolated from urine, feces and bile, and the metabolic pathways in the rat were proposed. All urinary and biliary metabolites (with the exception of 7U) were conjugated with glucuronic acid or sulfonated, and excreted. Cyprodinil was almostcompletely metabolized by hydroxylation of the phenyl ring (position 4) or pyrimidine ring (position 5), followed by conjugation. An alternative pathwayinvolved oxidation of the phenyl ring followed by glucuronic acid conjugation. A quantitative sex difference was observed with respect to sulfonation ofthe major metabolite that formed 6U. The monosulfate metabolite (1U) was predominant in females, whereas equal amounts of mono- and disulfate (6U) conjugates were noted in males. Most of the significant metabolites in feces were exocons of biliary metabolites (2U, 3U, 1G). These were assumed to be deconjugated in the intestines, partially reabsorbed into the generalcirculation, conjugated again, and eliminated renally. The major metabolic pathways of cyprodinil were not significantly influenced by the dose, treatment regimen, or sex of the animal.

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor (SF) is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA SF.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the

LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1 x 10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for cyprodinil used for human risk assessment is shown in Table 2 of this unit:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CYPRODINIL FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF and Endpoint for Risk Assessment	Study and Toxicological Effects
Acute Dietary females 13–50years of age	Developmental NOAEL = 150 mg/kg/day UF = 100 Acute RfD = 1.5 mg/kg/day	FQPA SF = 1X aPAD = acute RfD ÷ FQPA SF = 1.5 mg/kg/day	Developmental Toxicity - rabbit Developmental LOAEL = 400 mg/kg/day based on slight increase of litters showing extra ribs (13th).
Chronic Dietary all populations	NOAEL= 2.7 UF = 100 Chronic RfD = 0.03 mg/kg/day	FQPA SF = 1X cPAD = chronic RfD ÷ FQPA SF = 0.03 mg/kg/day	2–Year Chronic Toxicity/Carcinogenicity-rat LOAEL = 35.6 mg/kg/day based on degenerative liver lesions (spongiosis hepatis) in males.
Cancer (oral, dermal, inhalation)	Classification: ''not likely to be carcinogenic tohumans''		

* The reference to the FQPA SF refers to any additional SF retained due to concerns unique tothe FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.352) for the residues of cyprodinil, in or on a variety of raw agricultural commodities. Risk assessments were conducted by EPA to assess dietary exposures from cyprodinil in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA insert 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: 100% crop treated (PCT) and tolerance-level residues for cyprodinil on all treated crops. This assessment was a Tier I analysis. However, the only acute endpoint identified was for the population subgroup females 13–50 years old based on a slight increase of litters showing extra ribs (13th). No effects that could be attributed to a single exposure were observed (no end point was chosen) for any other population subgroup, including the general U.S. population; therefore, an acute dietary assessment for the general U.S. population or other subgroups was not conducted.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: 100% crop treated (PCT) and tolerance-level residues for cyprodinil on all treated crops. This assessment was a Tier I analysis.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for cyprodinil in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of cyprodinil.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in groundwater. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a percent of reference dose or percent of population adjusted dose. Instead, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to cyprodinil they are further discussed in the aggregate risk sections below.

Based on the PRZM/EXAMS and SCI-GROW models the estimated environmental concentrations (EECs) of cyprodinil for acute exposures are estimated to be 32 parts per billion (ppb) for surface water and 0.04 ppb for ground water. The EECs for chronic exposures are estimated to be 6 ppb for surface water and 0.04 ppb for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Cyprodinil is not registered for use on any sites that would result in residential exposure.

4. *Cumulative exposure to substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether cyprodinil has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, cyprodinil does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that cyprodinil has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1.*In general*. Section 408 of the FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity*. There is no evidence of increased susceptibility of rat or rabbit fetuses following*in utero* exposure in the developmental studies with cyprodinil. There is no evidence of increased susceptibility of young rats in the reproduction study with cyprodinil.

3. *Conclusion*. With the exception of missing 21/28–day dermal- toxicity and 28–day inhalation-toxicity studies in rats, there is a complete toxicity data base for cyprodinil and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. Since there are no residential uses for cyprodinil the only exposure route to infants and children is the oral route, for which the toxicity and exposure data base is complete. Therefore dermal and inhalation-toxicity studies, are not needed to assess risk to infants and children and EPA determined that the 10X safety factor to protect infants and children should be reduced to 1X.

The FQPA 10X safety factor is removed because:

- i. There are currently no registered or proposed residential(non-occupational) uses of cyprodinil.
- ii. There was no evidence (qualitative or quantitative) of increased susceptibility in the developmental rat or rabbit study following *in utero* exposure or in the two-generation reproduction study following pre- or post-natal exposure.
- iii. There was also no evidence of a neurodevelopmental effect in the rat or rabbit developmental toxicity studies or in the rat two-generation reproductive-toxicity study.
- iv. There are no data deficiencies for pre- and/or post-natal exposure and hence there are no residual uncertainties.
- v. Food and drinking water exposure assessments will notunderestimate the potential exposure for all populations, including infants and children.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water [e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure)]. This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA are used to calculate DWLOCs: 2 liter (L)/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and groundwater are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of residues of the pesticide in

drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to cyprodinil will occupy <1% of the aPAD for the subpopulation females 13–50 years old, the only population for whom an effect attributable to an acute exposure could be observed. In addition, there is potential for acute dietary exposure to cyprodinil in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in Table 3 of this unit:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO CYPRODINIL

Population Subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
Females 13–50 years old	1.5	<1.0	32	0.04	44,000

2. *Chronic risk*.Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to cyprodinil from food will utilize 7.4% of the cPAD for the U.S. population, 24% of the cPAD for all infants (< 1 year old) and 22% of the cPAD for children 1–6 years old. There are no residential uses for cyprodinil that result in chronic residential exposure to cyprodinil. Based the use pattern, chronic residential exposure to residues of cyprodinil is not expected. In addition, there is potential for chronic dietary exposure to cyprodinil in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in Table 4 of this unit:

TABLE 4.— AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO CYPRODINIL

Population Subgroup	cPAD mg/kg/day	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.03	7.4	6	0.04	970
All Infants (< 1 year old)	0.03	24	6	0.04	230
Children 1–6 years old	0.03	22	6	0.04	230
Children 7–12 years old	0.03	9.1	6	0.04	270
Females 13–50years old	0.03	5.3	6	0.04	1,000

3. *Short- and intermediate-term risk*. Short- and intermediate-term aggregate exposure take into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Cyprodinil is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population*. Cyprodinil has been classified as ''not likely to be carcinogenic in humans'' based on the results of a carcinogenicity study in mice and the combined chronic toxicity and carcinogenicity study in rats. Therefore, cyprodinil is not expected to pose a cancer risk to humans.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to cyprodinil residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

The results of Multiresidue Method testing of cyprodinil and its metabolite CGA–232449 have been forwarded to the Food and Drug Administration (FDA). Cyprodinil was tested according to the FDA Multiresidue protocols (Protocols C, D, and E), and acceptable recoveries were obtained for cyprodinil fortified in apples at 0.50 ppm using Protocol D. The petitioner is proposing the Method AG–631A as a tolerance enforcement method for residues of cyprodinil in/on the subject crops. This method, entitled ''Analytical Method for the Determination of Residues of CGA–219417 in Crops by High Performance Liquid Chromatography With Column Switching,'' is a reissue of Methods AG–631 and REM 141.01. The method includes confirmatory procedures using gas chromatography/nitrogen/phosphorus detector (GC/NPD). The method has successfully undergone radiovalidation using ^{14}C-labeled tomato samples and independent laboratory validation. In addition, the method has been the subject of acceptable Agency petition method validations on stone fruits and almond nutmeat and hulls.

B. International Residue Limits

There are no Mexican, Canadian or Codex maximum residue limits established for cyprodinil in/on caneberries, bushberries, pistachios and watercress, and thus no compatibility issues to be reconciled.

C. Conditions

The Agency is requiring as conditions for registration the following:An acceptable 21/28–day dermal-toxicity study in rats (GLN 870.3200). A 28–day inhalation-toxicity study in rats (GLN 870.3465)

V. Conclusion

Therefore, the tolerance is established for residues of cyprodinil on the caneberry subgroup at 10.0 ppm, watercress at 20 ppm, pistachio at 0.10 ppm and the bushberry subgroup, lingonberry, juneberry, and salal, at 3.0 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of the FFDCA provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) of FFDCA, as was provided in the old sections 408 and 409 of the FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number –OPP–2002–0344 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before April 7, 2003.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Rm.104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603–0061.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by docket ID number OPP–2002–0344, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to 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). Since

tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

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 this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 24, 2003.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.532 is amended by adding alphabetically the following commodities to the table in paragraph (a)(1) to read as follows:

§ 180.532 Cyprodinil; tolerances forresidues.

(a) * * *

(1) * * *

Commodity	Parts per million
* * *	* *
Bushberry subgroup 13B	3.0
Caneberry subgroup 13A	10
* * *	* *
Juneberry	3.0
Lingonberry	3.0
Pistachio	0.10
* * *	* *
Salal	3.0
Watercress	20

* * * * *

[FR Doc. 03–2771 Filed 2–4–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0355; FRL–7285–9]

Thiophanate Methyl; Pesticide Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of thiophanate methyl and its metabolite (methyl 2-benzimidazoyl carbamate (MBC)) in or on mushrooms. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on mushroom spawn. This regulation establishes a maximum permissible level for residues of thiophanate methyl in this food commodity. The tolerance will expire and is revoked on December 31, 2004.

DATES: This regulation is effective February 5, 2003. Objections and requests for hearings, identified by docket ID number OPP–2002–0355, must be received on or before April 7, 2003.

ADDRESSES: Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Andrea Conrath, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9356; e-mail address: conrath.andrea@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop producers (NAICS 111)
- Animal producers (NAICS 112)
- Food manufacturing (NAICS 311)

- Pesticide manufacturing (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2002–0355. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at http://www.epa.gov/edocket/ to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for residues of the fungicide thiophanate methyl and its metabolite (methyl 2-benzimidazoyl carbamate (MBC)), in or on mushroom at 0.01 parts per million (ppm). This tolerance will expire and is revoked on December 31, 2004. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18-related tolerances to set binding precedents for the application of section 408 of the FFDCA and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act of 1996 (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemptions for Thiophanate Methyl on Mushroom and FFDCA Tolerances

Benomyl has historically been used in mushroom production to control fungal pathogens, including one of the most serious, green mold (*Trichoderma aggresivum*). The registrant's recent cancellation of benomyl has left mushroom growers in Delaware, Maryland, and Pennsylvania without sufficient means to control this disease, as there are no available alternatives. Significant economic losses are expected without the requested use of thiophanate methyl. EPA has authorized under FIFRA section 18 the use of thiophanate methyl on mushroom spawn for control of green mold in Delaware, Maryland, and Pennsylvania. After having reviewed their submissions, EPA concurs that emergency conditions exist for these States.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of thiophanate methyl in or on mushroom. In doing so, EPA considered the safety standard in section 408(b)(2) of the FFDCA, and EPA decided that the necessary tolerance under section 408(l)(6) of the FFDCA would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6) of the FFDCA. Although this tolerance will expire and is revoked on December 31, 2004, under section 408(l)(5) of the FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on mushroom after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions,

EPA has not made any decisions about whether thiophanate methyl meets EPA's registration requirements for use on mushroom or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of thiophanate methyl by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than Delaware, Maryland, and Pennsylvania to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing FIFRA section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemptions for thiophanate methyl, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of thiophanate methyl and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for a time-limited tolerance for residues of thiophanate methyl in or on mushroom at 0.01 ppm.

The most recent estimated aggregate risks resulting from the use of thiophanate methyl, are discussed in the **Federal Register** for August 28, 2002 (67 FR 55137) (FRL–7192–1), final rule establishing tolerances for residues of thiophanate methyl in/on grapes, pears, potatoes, canola, and pistachios. Available residue data did not indicate that this use pattern will result in residues of thiophanate methyl in mushrooms over the limit of quantitation (LOQ), 0.01 ppm. Therefore, a tolerance is being established for mushroom at this level. Incremental addition of mushrooms at this level to dietary exposure, from existing food/feed uses, is negligible. Additionally, the results for this section 18 use do not alter the current aggregate exposure assessments with respect to drinking water or residential exposure. Refer to the August 28, 2002 **Federal Register** document for a detailed discussion of the aggregate risk assessments and determination of safety. EPA relies upon that risk assessment and the findings made in the **Federal Register** document in support of this action. Below is a brief summary of the aggregate risk assessment.

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. A summary of the toxicological dose and endpoints for thiophanate methyl for use in human risk assessment is discussed in the final rule mentioned above, published in the **Federal Register** of August 28, 2002 (67 FR 55137).

For thiophanate methyl, the Agency recently modified the tolerance expression, so that the residues to be regulated in plant and animal commodities for purposes of tolerance enforcement will consist of the residues of thiophanate methyl and its metabolite (methyl 2-benzimidazolyl carbamate (MBC)), expressed as thiophanate methyl.

Exposure from the use of benomyl, another pesticide which degrades under environmental conditions to MBC was not included in this assessment because the only basic registrant of benomyl requested voluntary cancellation of all benomyl-containing products in April 2001. Product cancellations were effective in early 2001 with sales and distribution of benomyl-containing products ending by December 31, 2001. However, the Agency conducted a dietary assessment using USDA Pesticide Data Program (PDP) monitoring data for benomyl, measured as MBC to estimate residues of thiophanate methyl because MBC is a common metabolite of both benomyl and thiophanate methyl. PDP data were available for apples, bananas, beans, cucurbits, peaches, and strawberries. The PDP analytical method employs a hydrolysis step that converts any benomyl present to MBC. MBC is then quantitated and corrected for molecular weight, and results are measured as the sum of benomyl and MBC. Therefore, using MBC data to estimate thiophanate methyl residues may be a conservative approach in that it may over estimate thiophanate methyl residues.

EPA assessed risk scenarios for thiophanate methyl under acute, chronic, and short- and intermediate-term exposures.

The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity.

For the acute exposure assessments, maximum percent crop treated estimates and anticipated residue estimates were used.

Using these exposure assumptions, EPA concluded that acute dietary exposure to thiophanate methyl uses 10% of the acute Population Adjusted Dose (aPAD) for the general U.S. population and 25% of the aPAD for the most highly exposed population subgroup of concern, infants (< 1 year). For MBC, the acute dietary risk estimate uses 4% of the aPAD for the general U.S. population and 89% of the aPAD for the population subgroup of concern, infants (< 1 year). The total thiophanate methyl plus MBC acute dietary risk estimate for the population subgroup of concern, females (13-50 years) uses 51% of the aPAD. The drinking water assessment, based on simultaneous dietary exposure to both MBC and thiophanate methyl (which was converted to MBC equivalents) resulted in the following Drinking Water Levels of Concern (DWLOCs): Infants (< 1 year) 18 ppb; children (1-6 years) 57 ppb; females (13-50 years) 150 - 170 ppb; and general U.S. population 5,700 ppb. The lowest DWLOC for the population subgroup, infants (< 1 year) does not exceed the Estimated Environmental Concentration (EEC) for ground water (0.033 ppb); however, the DWLOC does exceed the EEC for surface water (25 ppb). Although the EEC is exceeded, the DWLOC is greatly inflated because 50% of the aPAD percentage is consumed by citrus which is a 1–year emergency use only. When citrus is removed from the DWLOC estimation, the DWLOC becomes 94 ppb which is well above the EEC of 25 ppb. The DWLOC is significantly lowered by the addition of citrus because field trial data was used which results in an overly conservative estimation.

Another indication that the addition of citrus based on field trial data results in an over estimation is the fact that benomyl PDP data available for citrus indicated that there were zero hits out of 689 Florida samples of orange juice. These data were not used to refine the DWLOC estimation because the benomyl application rate is somewhat

lower than the rate approved for thiophanate methyl in this year's emergency exemption. However, the Agency believes that most growers used the benomyl rate, because the emergency exemption was approved later in the use season and thus fewer applications than were authorized were actually used. Furthermore, if the higher rate were used, the impact would be lessened by the fact that juice is a blended commodity. Therefore, although the DWLOC is exceeded, the acute dietary risk from food and water does not exceed the Agency's level of concern.

For the chronic exposure assessments, average residues from field trial data and average percent crop treated estimates were used.

Using these exposure assumptions, EPA has concluded that exposure to thiophanate methyl and MBC will utilize the following percentages of the chronic Population Adjusted Dose (cPAD) for the U.S. population: Thiophanate methyl - 0.7%; MBC - 1.0% and total thiophanate methyl plus MBC - 1.7%. The major identifiable subgroup with the highest aggregate exposure is children (1-6 years) and EPA has concluded that aggregate dietary exposure to thiophanate methyl and MBC will utilize the following percentages of the cPAD: Thiophanate methyl - 2.3%; MBC - 26% and total thiophanate methyl plus MBC -28%. EPA generally has no concern for exposures below 100% of the cPAD because the cPAD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. The aggregate chronic DWLOC's are as follows: 858 ppb for the general U.S. population; 69 ppb for females (13-50 years); 22 ppb for infants (< 1 year); and 18 ppb for children (1-6 years). The aggregate surface water EECs for thiophanate methyl is 0.7 ppb; 14 ppb for MBC and 14.7 ppb for thiophanate methyl plus MBC. Therefore, the chronic aggregate risks do not exceed the Agency's level of concern.

Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Thiophanate methyl and MBC are currently registered for use that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for thiophanate methyl and MBC.

All residential exposures are considered to be short-term. The Margins of Exposure (MOEs) (converted to MBC equivalents) for aggregate short-term exposure to thiophanate methyl are as follows: Oral exposure of children (1-6 years) is 670; dermal exposure of children (1-6 years) is 1,000; and dermal exposure of females (13-50 years) is 1,315. The MOEs for aggregate exposure to MBC from the use of MBC as an in-can preservative are 670 for dermal exposure and 770 for exposure via inhalation. The MOEs (converted to MBC equivalents) for the total thiophanate methyl and MBC aggregate exposure are as follows: 630 for oral and dermal exposure of children (1-6 years); 770 for exposure via inhalation for females (13-50 years); and 620 for oral and dermal exposure for females (13-50 years). Although the MOEs below 1,000 exceed the Agency's level of concern, when considering the conservative method of exposure estimation previously discussed, and the negotiated risk mitigation whereby the registrant has agreed to conduct hand-press studies to help refine this assessment, the risks do not exceed the Agency's level of concern.

Aggregate cancer risk for U.S. population. The total thiophanate methyl and MBC dietary cancer risk is 8.5×10^{-7} for existing and new uses. The cancer risk from non-occupational residential exposure is 3.7×10^{-7}. The aggregate cancer risk is 1.2×10^{-6}. This risk estimate includes cancer risk from both thiophanate methyl and MBC on food including all pending uses and section 18 uses, thiophanate methyl exposure from treating ornamentals, thiophanate methyl exposure from performing post-application lawn activities, and exposure from applying paint containing MBC. This is considered to be a high-end risk scenario since it is not expected that someone would treat ornamentals, perform high exposure post-application activities, and apply paint containing MBC every year for 70 years. Therefore, this estimate is considered to be a conservative estimate. Additionally, the cancer risk estimate based on the highest EEC (thiophanate methyl plus MBC EEC) is 9.6×10^{-7}. This is also a very high-end risk estimate since it is based on the maximum rate being applied every season for 70 years. Thus, food plus water (assuming that the modeled surface water EEC is equivalent to concentrations in finished drinking water) plus non-occupational residential cancer risk is 2.2×10^{-6} which is still within the range considered as negligible. In addition, the cancer risk estimates using benomyl/MBC PDP monitoring data to estimate thiophanate methyl residues are below 1×10^{-6} for thiophanate methyl existing uses, new uses, and the amortized section 18 use on citrus and blueberry. Therefore, the risks do not exceed the Agency's level of concern.

Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to thiophanate methyl and MBC residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460–0001; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

The Codex Alimentarius Commission has established maximum residue limits (MRLs) for thiophanate methyl residues in/on various plant and animal commodities. Codex MRLs for thiophanate methyl are currently expressed as MBC. The Codex MRL residue definition and the U.S. tolerance definition, previously expressed as only thiophanate methyl, have been incompatible and will remain incompatible even with the recent revision of the U.S. tolerance definition, since the revised tolerance definition includes both thiophanate methyl and MBC. Additionally, there is a 1.0 ppm Codex MRL for thiophanate methyl on mushroom. The 0.01 ppm tolerance being established by this document will not harmonize with Codex.

C. Conditions

The pesticide, thiophanate methyl, is to be mixed at 1.4 lbs. active ingredient (a.i.) (2 lbs. product) with 80 to 100 lbs. of gypsum, limestone, or chalk. This mixture will then be used to coat spawn grains (approximately 1,600 units) before mixing the spawn into the mushroom growing substrate. The substrate will then be applied to bed surface before spawning.

VI. Conclusion

Therefore, the tolerance is established for residues of thiophanate methyl and its metabolite, (methyl 2-benzimidazoyl carbamate (MBC), expressed as thiophanate methyl, in or on mushroom at 0.01 ppm.

VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of the FFDCA provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) of the FFDCA, as was provided in the old sections 408 and 409 of the FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2002–0355 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before April 7, 2003.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Rm.104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603–0061.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3.*Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by the docket ID number OPP–2002–0355, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VIII. Regulatory Assessment Requirements

This final rule establishes a time-limited tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to 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). Since tolerances and exemptions that are

established on the basis of a FIFRA section 18 exemption under section 408 of the FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

IX. Submission to Congress and the Comptroller General

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 this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 17, 2003.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.371 is amended by alphabetically adding the entry for mushroom to the table in paragraph (b) to read as follows:

§ 180.371 Thiophanate methyl; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
* * * * * * *		
Mushroom	0.01	12/31/04

* * * * *

[FR Doc. 03–2770 Filed 2–4–03; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7801]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The effective date of each community's suspension is the third date (''Susp.'') listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Edward Pasterick, Division Director, Risk Communication Division, Federal Insurance and Mitigation Administration, 500 C Street, SW., Room 435, Washington, DC 20472, (202) 646–3443.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance

coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

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.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp.; p. 252.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp.; p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 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.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in special flood hazard areas
Region VI				
Arkansas: Conway, City of, Faulkner County.	050078	October 29, 1974, Emerg.; March 18, 1980, Reg.; February 5, 2003, Susp.	2/5/2003	2/5/2003
Faulkner County, Faulkner County.	050431	September 24, 1990, Emerg.; September 27, 1991, Reg.; February 5, 2003, Susp.	2/5/2003	2/5/2003
Greenbrier, City of, Faulkner County.	050328	November 19, 1975, Emerg.; July 13, 1982, Reg.; February 5, 2003, Susp.	2/5/2003	2/5/2003
Region III				
Virginia: Fairfax, City of, Independent City.	515524	May 8, 1970, Emerg.; December 17, 1971, Reg.; February 19, 2003, Susp.	2/19/2003	2/19/2003
Region IV				
Mississippi: D'iberville, City of, Harrison County.	280336	November 14, 1988, Emerg.; November 14, 1988, Reg.; February 19, 2003, Susp.	2/19/2003	2/19/2003

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in special flood hazard areas
Region V				
Indiana: Arcadia, Town of, Hamilton County.	180496	December 9, 1988, Reg.; February 19, 2003, Susp	2/19/2003	2/19/2003
Carmel, City of, Hamilton County.	180081	August 7, 1975, Emerg.; May 19, 1981, Reg.; February 19, 2003, Susp.	2/19/2003	2/19/2003
Cicero, Town of, Hamilton County.	180320	March 24, 1975, Emerg.; January 2, 1980, Reg.; February 19, 2003, Susp.	2/19/2003	2/19/2003
Fishers, Town of, Hamilton County.	180423	August 1, 1975, Emerg.; June 30, 1976, Reg.; February 19, 2003, Susp.	2/19/2003	2/19/2003
Hamilton County, Unincorporated Areas.	180080	December 15, 1988, Emerg.; December 16, 1988, Reg.; February 19, 2003, Susp.	2/19/2003	2/19/2003
Noblesville, City of, Hamilton County.	180082	June 12, 1975, Emerg.; March 2, 1981, Reg.; February 19, 2003, Susp.	2/19/2003	2/19/2003
Westfield, Town of, Hamilton County.	180083	August 15, 1975, Emerg.; March 16, 1981, Reg.; February 19, 2003, Susp.	2/19/2003	2/19/2003
Region X				
Idaho: Boise, City of, Ada County.	160002	April 14, 1975, Emerg.; April 17, 1984, Reg.; February 19, 2003, Susp.	2/19/2003	2/19/2003

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: January 29, 2003.

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 03–2786 Filed 2–4–03; 8:45 am]

BILLING CODE 6718–05–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–2612; MM Docket No. 00–31; RM–9815, RM–10014, RM–10095]

Radio Broadcasting Services; Nogales, Patagonia, and Vail, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule, correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register** of October 31, 2002, a document dismissing an Application for Review filed by Big Broadcast of Arizona, LLC directed to the *Report and Order* in this proceeding. The amendatory language was omitted from the document. This document adds the amendatory language.

DATES: Effective on February 5, 2003.

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

SUPPLEMENTARY INFORMATION: The FCC published a document in the **Federal Register** of October 31, 2002 (67 FR 66340), dismissing an Application for Review filed by Big Broadcast of Arizona, LLC directed to the *Report and Order* in this proceeding. *See* 65 FR 11540, March 3, 2000. In FR Doc. 02–27693, the amendatory language was omitted. This correction adds the amendatory language to the document.

In rule FR Doc. 02–27693 published on October 31, 2002 (67 FR 66340), make the following correction. On page 66341, in the first column, after line 15, add the following amendatory language:

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 283A at Vail.

Dated: January 29, 2003.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–2671 Filed 2–4–03; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–48; MM Docket No. 01–131, RM–10148, MM Docket No. 01–133, 10143, RM–10150]

Radio Broadcasting Services; Benjamin and Mason, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial of petition for reconsideration.

SUMMARY: This document denies a Petition for Reconsideration filed by Charles Crawford directed to both the *Report and Order* in MM Docket No. 01–131 and the *Report and Order* in MM Docket No. 01–133 which his respective proposals for a Channel 257C2 allotment at Benjamin, Texas, and a Channel 249C3 allotment at Mason, Texas. *See* 67 FR 42198, June 21, 2002. With this action, the proceeding is terminated.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 01–131, and MM Docket No. 01–133 adopted January 2, 2003, and released January 3, 2003. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference

Information Center at Portals ll, CY–A257, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualixint@aol.com*.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–2670 Filed 2–4–03; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–155; MB Docket No. 02–351 RM–10601]

Radio Broadcasting Services; Blanket, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission allots Channel 284A at Blanket, Texas, as the community's first local FM transmission service in response to a petition filed by Robert Fabian. *See* 67 FR 71926 (December 3, 2002). Channel 284A can be allotted at Goliad, Texas, without a site restriction at coordinates 31–49–24 and 98–47–12. With this action, this proceeding is terminated. A filing window for channel 284A at Blanket will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent order.

DATES: Effective March 3, 2003.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 02–351, adopted January 15, 2003, and released January 17, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Blanket, Channel 284A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–2668 Filed 2–4–03; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 68, No. 24
Wednesday, February 5, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NE–39–AD]

RIN 2120–AA64

Airworthiness Directives; Turbomeca S.A. Arrius-2F Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that is applicable to Turbomeca S.A. Arrius-2F turboshaft engines with certain serial number (SN) Fuel Control Units (FCU's). This proposal would require adjusting the FCU maximum fuel flow mechanical stop position to a higher fuel flow setting. This proposal is prompted by an FCU discovered to have a maximum fuel flow limit adjusted below the maximum required setting. The actions specified by the proposed AD are intended to prevent reduced maximum available power during takeoff, landing, or an emergency, which could significantly affect helicopter performance and result in loss of the helicopter.

DATES: Comments must be received by April 7, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–NE–39–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.gov*. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in the proposed rule may be obtained from Turbomeca S.A., 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 FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

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:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NE–39–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–NE–39–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Direction Generale de L'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Turbomeca S.A. Arrius-2F turboshaft engines. The DGAC advises that during shop visit for repair, an FCU was discovered to have a maximum fuel flow limit adjusted below the maximum required setting. Upon investigation, the manufacturer has identified 67 Fuel Control Units by serial number as having maximum fuel flow mechanical stops set too low.

Manufacturer's Service Information

Turbomeca S.A has issued Alert Service Bulletin (ASB) No. A319 73 4808, dated September 1, 2000, that specifies for FCU's part numbers (P/N's) 0 319 92 832 0, 0 319 92 830 0, and 0 319 92 825 0, with the SN's listed in the SB, adjustment of the FCU maximum fuel flow mechanical stop position to the correct fuel flow setting.

The DGAC classified this alert service bulletin as mandatory and issued AD 2000–482(A), dated November 29, 2000, in order to assure the airworthiness of these Turbomeca S.A. Arrius-2F turboshaft engines in France.

Bilateral Agreement Information

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

Proposed Requirements of this AD

Since an unsafe condition has been identified that is likely to exist or develop on other Turbomeca S.A. Arrius-2F turboshaft engines of the same type design that are used on helicopters registered in the United States, the proposed AD would require within 120

days after the effective date of the proposal, on the serial number FCU's listed in the proposal, adjusting the maximum fuel flow mechanical stop position to the correct fuel flow setting which, if not adjusted could significantly affect helicopter performance. The actions would be required to be done in accordance with the alert service bulletin described previously.

Economic Analysis

There are approximately 334 engines of the affected design in the worldwide fleet. The FAA estimates that of the 63 engines installed on aircraft of U.S. registry, four engines would be affected by this proposed AD. The FAA also estimates that it would take approximately 3 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required tooling would cost approximately $300 per engine. Based on these figures, the total cost of the proposed AD to U.S. operators is estimated to be $1,920. The manufacturer has advised the FAA and DGAC that the operator may be provided with material and tooling at no cost to the operator, thereby substantially reducing the cost of the proposed rule.

Regulatory Analysis

This proposed 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 proposed rule.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Turbomeca S.A.: Docket No. 2002–NE–39–AD.

Applicability: This airworthiness directive (AD) is applicable to Turbomeca S.A. Arrius -2F turboshaft engines with Fuel Control Units (FCU's) part numbers (P/N's) 0 319 92 832 0, 0 319 92 830 0, and 0 319 92 825 0, with FCU serial numbers (SN's) in the following Table 1:

TABLE 1.—AFFECTED FCU SERIAL NUMBERS

102B	135B	166B
103B	136B	167B
104B	137B	168B
105B	138B	169B
106B	139B	171B
107B	140B	173B
108B	141B	174B
110B	142B	175B
111B	143B	176B
112B	144B	177B
113B	145B	178B
114B	146B	180B
115B	148B	181B
116B	149B	182B
118B	150B	183B
120B	153B	185B
122B	155B	186B
123B	156B	190B
124B	158B	191B
126B	159B	193B
129B	161B	199B
132B	164B	N/A
133B	165B	N/A

These engines are installed on, but not limited to Eurocopter 120B ''Colibri'' helicopters.

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

Compliance: Compliance with this AD is required within 120 days after the effective date of this AD, unless already done.

To prevent reduced maximum available power during takeoff, landing, or an emergency, which could significantly affect helicopter performance, and result in loss of the helicopter, do the following:

(a) For FCU's listed in the applicability of this AD, adjust the maximum fuel flow mechanical stop position to a higher fuel flow setting, in accordance with paragraphs 2.A.(1) and 2.B.(1) of Turbomeca S.A Alert Service Bulletin (ASB) No. A319 73 4808, dated September 1, 2000.

(b) Perform a ground run check and a check flight in accordance with paragraph 2.C.(1) of Turbomeca S.A ASB No. A319 73 4808, dated September 1, 2000.

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, 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

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

Note 3: The subject of this AD is addressed in Direction Generale de L'Aviation Civile AD 2000–482(A), dated November 29, 2000.

Issued in Burlington, Massachusetts, on January 29, 2003.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 03–2633 Filed 2–4–03; 8:45 am]

BILLING CODE 4910–13–P

PEACE CORPS

22 CFR Part 307

Peace Corps Standards of Conduct

AGENCY: Peace Corps.

ACTION: Proposed rule.

SUMMARY: The Peace Corps is proposing to remove regulations that set out the

ethical conduct and other responsibilities applicable to Peace Corps employees. These regulations have been superseded, in significant part, by government-wide regulations.

DATES: Comments must be received by March 7, 2003.

ADDRESSES: Comments should be submitted to the Office of the General Counsel, 8th Floor, 1111 20th Street, NW., Washington, DC 20526.

FOR FURTHER INFORMATION CONTACT: Carl R. Sosebee, Designated Agency Ethics Official, 202–692–2150.

SUPPLEMENTARY INFORMATION:

I. Background

Part 307, which sets out Peace Corps' regulations regarding the ethical conduct and other responsibilities of Peace Corps employees was last revised in 1987, *see* 52 FR 30151, Aug. 13, 1987; 22 CFR part 307. The conduct and responsibilities covered in this part have been superseded by the Office of Government Ethics' (OGE) executive branch ethical standards and requirements codified at 5 CFR parts 2634, 2635, 2636, 2637, 2638 and 2640. Further, rules governing partisan political activity by executive branch employees and rules governing gambling, betting and lotteries on government owned or leased property or while on duty are set forth at 5 CFR parts 734 and 735. Government-wide rules on procurement integrity are set forth in the Procurement Integrity Act, 41 U.S.C. 423, and the Federal Acquisition Regulations, 48 CFR 3.104. Because Peace Corps employees are already subject to these various rules, the Peace Corps proposes to remove part 307 from the Code of Federal Regulations. Remaining portions of the Peace Corps' existing standards pertaining to economic and financial activities of employees abroad, information, and speeches and participation in conferences set forth in Sections 307.735, 308, 309 and 310, respectively, may be reissued as Agency internal regulations pursuant to the authority of the Director in 22 U.S.C. 2503. Also, to the extent part 307 covers organizational conflicts of interest in procurement and procurement related matters, the Peace Corps is considering whether to incorporate them into the Peace Corps' internal rules.

II. Matters of Regulatory Procedure

Executive Order 12866. The Peace Corps has determined that this proposed rule does not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866.

Regulatory Flexibility Act. Pursuant to section 605(b) of the Regulatory Flexibility Act, the Peace Corps certifies that this rule will not 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.*). Accordingly, no regulatory flexibility analysis is required.

Unfunded Mandates Reform Act of 1995. Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act) (2 U.S.C. Chs. 17A and 25) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, agencies must also identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The Peace Corps has determined that this rule will not result in expenditures by State, local, or tribal governments or by the private sector of $100 million or more. Accordingly, the Peace Corps has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

List of Subjects in 22 CFR Part 307

Political activities; Government employees; Ethical conduct; Financial disclosure, Conflicts of interest.

For the reasons set forth in the preamble, the Peace Corps proposes to amend Title 22 of the CFR by removing part 307.

Dated: January 31, 2003.

Tyler S. Posey,

General Counsel.

[FR Doc. 03–2703 Filed 2–4–03; 8:45 am]

BILLING CODE 6015–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–03–002]

RIN 2115–AE47

Drawbridge Operation Regulations; Shrewsbury River, NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the drawbridge operating regulations governing the operation of the Route 36 Bridge, mile 1.8, across the Shrewsbury River at Highlands, New Jersey. This proposed change to the drawbridge operation regulations would synchronize the drawbridge opening schedules for the two moveable bridges across the Shrewsbury River during the boating season. This action is necessary to meet the present needs of navigation.

DATES: Comments must reach the Coast Guard on or before April 7, 2003.

ADDRESSES: You may mail comments to Commander (obr), First Coast Guard District Bridge Branch, One South Street, Battery Park Building, New York, New York 10004, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except, Federal holidays. The telephone number is (212) 668–7165. The First Coast Guard District, Bridge Branch, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–03–002), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

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

Background

The Route 36 Bridge, mile 1.8, across the Shrewsbury River at Highlands, New Jersey, has a vertical clearance of 35 feet at mean high water and 39 feet at mean low water.

The existing regulations listed at 33 CFR 117.755, require the Route 36 Bridge to open on signal; except that, from May 15 through October 15, 7 a.m. to 8 p.m., the draw need open only at quarter before the hour and quarter after the hour.

The Coast Guard received requests from mariners to change the drawbridge operation regulations that govern the Route 36 Bridge. Presently the two moveable bridges across the Shrewsbury River, the Route 36 Bridge, and the Monmouth County highway bridge, have staggered opening schedules during the boating season. The mariners have asked the Coast Guard to change the opening schedule for the Route 36 Bridge in order to synchronize the bridge opening times for the two moveable bridges during the boating season to help reduce vessel transit delays and enhance boating safety.

The second moveable bridge across the Shrewsbury River, the Monmouth County highway bridge, at mile 4.0, is required to open on signal; except that, from May 15 through September 30, on Saturdays, Sundays, and holidays, from 9 a.m. to 7 p.m., the draw need open only on the hour and half hour.

This proposed rule if adopted would synchronize the bridge opening times at the two bridges by requiring the Route 36 Bridge to open on signal from May 15 through October 15, 7 a.m. to 8 p.m., on the hour and half hour only.

This proposed change is expected to better meet the present needs of navigation.

Discussion of Proposal

This proposed change would amend 33 CFR 117.755 by revising paragraph (a), which lists the Route 36 Bridge drawbridge operation regulations. This proposed change would allow the Route 36 Bridge to open on signal; except that, from May 15 through October 15, from 7 a.m. to 8 p.m., the draw need open only on the hour and half hour.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary.

This conclusion is based on the fact that the synchronization of the opening times for the moveable bridges across the Shrewsbury River will better meet the present needs of navigation.

Small Entities

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

The Coast Guard certifies under section 5 U.S.C. 605(b), that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This conclusion is based on the fact that the synchronization of the opening times for the moveable bridges across the Shrewsbury River will better meet the present needs of navigation.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply,

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

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.1d, this proposed rule is categorically excluded from further environmental documentation because promulgation of drawbridge regulations have been found not to have a significant effect on the environment. A written ''Categorical Exclusion Determination'' is not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Section 117.755 is amended by revising paragraph (a) to read as follows:

§ 117.755 Shrewsbury River.

(a) The Route 36 Bridge, mile 1.8, at Highlands, New Jersey, shall open on signal; except that, from May 15 through October 15, 7 a.m. to 8 p.m., the draw need open on the hour and half hour only. The owners of the bridge shall provide and keep in good legible condition, two clearance gauges, with figures not less than eight inches high, designed, installed, and maintained according to the provisions of § 118.160 of this chapter.

* * * * *

Dated: January 23, 2003.

Vivien S. Crea,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 03–2696 Filed 2–4–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 385

RIN 0710–AA49

Programmatic Regulations for the Comprehensive Everglades Restoration Plan

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of public meeting.

SUMMARY: The Council on Environmental Quality will host a public meeting for stakeholders to clarify and respond to comments filed on the proposed rule to establish programmatic regulations for the Comprehensive Everglades Restoration Plan. Congress approved the Comprehensive Everglades Restoration Plan in section 601 of the Water Resources Development Act of 2000, Public Law 106–541, 114 Stat. 2680, which was enacted into law on December 11, 2000. The Act requires the Secretary of the Army to promulgate programmatic regulations, with the concurrence of the Secretary of the Interior and the Governor of Florida, to ensure that the goals and purposes of the Comprehensive Everglades Restoration Plan are achieved.

DATES: The public meeting will take place on February 6, 2003, from 1 to 5 pm.

ADDRESSES: The meeting will be held at the Council on Environmental Quality, White House Conference Center, Truman Room, 3rd Floor, 726 Jackson Place, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stu Appelbaum, Corps of Engineers, Jacksonville District, P.O. Box 4970, Jacksonville, Florida 32232–0019, phone (904) 232–1877; fax (904) 232–1434.

SUPPLEMENTARY INFORMATION: On August 2, 2002 the Army published the proposed rule to establish the programmatic regulations in the **Federal Register** (67 FR 50540). The public comment period on the proposed rule closed on October 1, 2002. The proposed regulations establish processes and procedures that will guide the Army Corps of Engineers and its partners in the implementation of the Comprehensive Everglades Restoration Plan. The purpose of the public meeting is to provide an opportunity for stakeholders to clarify and respond to comments filed on the proposed rule. Representatives of the Army (the rule writing agency), the Department of the Interior and State of Florida (from whom concurrence on the final rule is required by statute) and other Federal agencies who will likely participate in the interagency review of the rule under Executive Order 12866 will be in attendance to listen to stakeholder views. The meeting will be facilitated by the Council on Environmental Quality.

Authority: Section 601, Public Law 106–541, 114 Stat. 2680; 10 U.S.C. 3013(g)(3); 33 U.S.C. 1 and 701; and 5 U.S.C. 301.

Dated: January 31, 2003.

George S. Dunlop,

Deputy Assistant Secretary of the Army, Department of the Army.

[FR Doc. 03–2776 Filed 2–4–03; 8:45 am]

BILLING CODE 3710–92–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–154; MB Docket No. 03–12, RM–10627; MB Docket No. 03–13, RM–10628; and MB Docket No. 03–14, RM–10629]

Radio Broadcasting Services: Johnston City and Marion, Illinois; Fredericksburg and Mason, Texas; Charles Town, West Virginia and Stephens City, Virginia

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on proposals in three separately docketed proceedings in a multiple docket *Notice of Proposed Rule Making.* The first, filed by Cleveland Radio Licenses, LLC, proposes to change Station WXVA–FM's community of license from Charles Town, West Virginia, to Stephens City, Virginia, and provide Stephens City with its first local aural transmission service. The coordinates for requested Channel 252A at Stephens City, Virginia are 39–07–30 NL and 78–04–26 WL, with a site restriction of 13.3 kilometers (8.3 miles) east of Stephens City, Virginia. The second, filed by Clear Channel Broadcasting Licenses, Inc., proposes to change Station WDDD–FM's community of license from Marion, Illinois to Johnston City, Illinois, and provide Johnston City with its first local FM transmission station. The coordinates for requested Channel 297B at Johnston City, Illinois, are 37–45–15 NL and 88–56–05 WL, with a site restriction of 7.4 kilometers (4.6 miles) south of Johnston City, Illinois. The third proposal was filed by Jayson and Janice Fritz. They hold a construction permit to operate a

new FM broadcast station on Channel 289C2 at Mason, Texas. They request that the Commission downgrade Channel 289C2 to Channel 289C3, and reallot that channel to Fredericksburg, Texas, to provide Fredericksburg with its first local commercial FM transmission service. The coordinates for requested Channel 289C3 at Fredericksburg, Texas are 30–23–37 NL and 99–01–05 WL, with a site restriction of 19.3 kilometers (12 miles) northwest of Fredericksburg.

The foregoing reallotment proposals comply with the provisions of Section 1.420(i) of the Commission's Rules, and therefore, the Commission will not accept competing expressions of interest in the use of Channel 252A at Stephens City, Virginia, Channel 297B at Johnston City, Illinois, or Channel 289C3 at Fredericksburg, Texas, or require the rulemaking proponents to demonstrate the availability of any additional equivalent class channels.

DATES: Comments must be filed on or before March 10, 2003, and reply comments on or before March 25, 2003.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for the rulemaking proponents, as follows: Mark N. Lipp, Esq. and J. Thomas Nolan, Esq., Shook, Hardy & Bacon; 600 14th Street, NW., Suite 800; Washington, DC 20005–2004 (Counsel for Cleveland Radio Licenses, LLC and Clear Channel Broadcasting Licenses, Inc.); and Vincent J. Curtis, Jr., Esq., Anne Goodwin Crump, Esq., and Alison J. Shapiro, Esq., Fletcher Heald & Hildreth, P.L.C.; 1300 North 17th Street, 11th Floor; Arlington, Virginia 22209 (Counsel for Jayson and Janice Fritz).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 03–12; MB Docket No. 03–13; and MB Docket No. 03–14, adopted January 15, 2003, and released January 17, 2003. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

The provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as these proceedings, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by adding Johnston City, Channel 297B, and removing Channel 297B at Marion.

3. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Fredericksburg, Channel 289C3, and removing Channel 289C2 at Mason.

4. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by adding Stephens City, Channel 252A.

5. Section 73.202(b), the Table of FM allotments under West Virginia, is amended by removing Charles Town, Channel 252A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–2669 Filed 2–4–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–50; MB Docket Nos. 03–6, 03–7; RM–RM–10595, RM–10596]

Radio Broadcasting Services; Garysburg, Roanoke Rapids, North Carolina; Caledonia, Upper Sandusky, OH

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission seeks comment on proposals in two separate docketed proceedings in a multiple docket *Notice of Proposed Rule Making.* The first, filed by MainQuad Communications, Inc., proposes to reallot Channel 272A from Roanoke Rapids, North Carolina, to Garysburg, North Carolina, as the community's second local aural transmission service, and modify the license for Station WPTM(FM) to reflect the change of community. Channel 272A can be reallotted from Roanoke Rapids, to Garysburg, North Carolina at MainQuad's requested existing transmitter site 9.4 kilometers (5.8 miles) northwest of the community at coordinates 40–35–43 NL and 93–02–59 WL. The second, filed by Clear Channel Broadcasting Licenses, Inc. proposes to reallot Channel 240A from Upper Sandusky, Ohio to Caledonia, Ohio, as the community's first local aural transmission service, and modify the license for Station WYNT(FM) to reflect the change of community. Channel 240A can be reallotted from Upper Sandusky to Caledonia, Ohio, at Clear Channel's requested site 8.2 kilometers (5.1 miles) southwest of the community at coordinates 40–35–43 NL and 93–02–59 WL.

DATES: Comments must be filed on or before March 10, 2003, and reply comments must be filed on or before March 25, 2003.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: MainQuad Communications, Inc., c/o John M. Pelkey, Esq., Garvey, Schuber & Barer, 5th Floor, 1000 Potomac Street, NW., Washington, DC 20007; and Clear Channel Broadcasting Licenses, Inc., c/o Marissa G. Repp, Esq., F. William LeBeau, Esq., Hogan & Hartson, LLP, 555 13th Street, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket Nos. 03–6 and 03–7, adopted January 15, 2003, and released January 17, 2003. The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

2. Section 73.202(b), the Table of FM Allotments under North Carolina is amended by adding Channel 272A at Garysburg and by removing Roanoke Rapids, Channel 272A.

3. Section 73.202(b), the Table of FM Allotments under Ohio, is amended by adding Caledonia, Channel 240A and by removing Upper Sandusky, Channel 240A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division Media Bureau.

[FR Doc. 03–2667 Filed 2–4–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–52; MB Docket No. 03–8; RM–10625]

Radio Broadcasting Services; Saluda and Irmo, South Carolina

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Breckenridge Communications, Inc. (''Petitioner''), licensee of Station WJES–FM, Channel 221A, Saluda, South Carolina. Petitioner proposes to upgrade Station WJES–FM from Channel 221A to 221C3, change Station WJES–FM's community of license from Saluda to Irmo, South Carolina, and provide Irmo with its first local aural transmission service. Petitioner has submitted a preclusion study demonstrating that upgrading Station WJES–FM from Channel 221A to 221C3 and reallotting the station to Irmo, South Carolina, would not preclude the establishment of any new or upgraded noncommercial educational station on Channels 218, 219, or 220. The coordinates for requested Channel 221C3 at Irmo, South Carolina, are 34–09–00 NL and 81–13–00 WL, with a site restriction of 7.8 kilometers (4.9 miles) northwest of Irmo.

Petitioner's reallotment proposal complies with the provisions of section 1.420(i) of the Commission's rules, and therefore, the Commission will not accept competing expressions of interest in the use of Channel 221C3 at Irmo, South Carolina, or require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comments must be filed on or before March 10, 2003, and reply comments on or before March 25, 2003.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Matthew H. McCormick, Esq, Reddy, Begley & McCormick, LLP; 2175 K Street, NW., Suite 350; Washington, DC 20037–1845.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's notice of proposed rule making, MB Docket No. 03–8, adopted January 15, 2003, and released January 17, 2003. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

The provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under South Carolina, is amended by adding Irmo, Channel 221C3, and removing Saluda, Channel 221A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–2666 Filed 2–4–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Denial of Petition for Rulemaking; Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies the petition submitted by Sierra Products, Inc. (Sierra), to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 108, ''Lamps, Reflective Devices, and Associated Equipment,'' to allow center high-mounted stop lamps (CHMSLs) to be combined with identification lamps, and to require that identification lamps be lowered to eye height on heavy trucks.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Flanigan, Office of Rulemaking, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Mr. Flanigan's telephone number is: (202) 366–4918. His facsimile number is (202) 366–4329.

SUPPLEMENTARY INFORMATION: By a letter dated September 19, 2001, Sierra petitioned the agency to amend FMVSS No. 108 to allow vehicles with a width of 2032 millimeters (mm) or greater to have their CHMSLs physically and optically combined with their three identification lamps and that this combination of lamps be required to be lowered to eye height. Sierra found that an industry standard was being changed to allow the combination of these lamps.

Background: FMVSS No. 108 requires CHMSLs to be on all motor vehicles, except trailers and motorcycles, that are less than 2032 mm wide. It does not require CHMSLs on any other vehicle. CHMSLs on vehicles not required to have these lamps are considered by the agency to be auxiliary lamps that are not specifically regulated. Manufacturers may voluntarily install CHMSLs on vehicles on which CHMSLs are not required provided that the voluntary CHMSL does not impair the effectiveness of required lamps.

FMVSS No. 108 requires that identification lamps (a cluster of three lamps) be mounted on the centerline and as high as practicable on vehicles whose overall width is 2032 mm or more. The purpose of identification lamps is to uniquely identify large vehicles and do so with the longest possible sight preview of the lamps.

The industry standard Sierra referred to in its petition is Society of Automotive Engineers (SAE) J1432, ''High-Mounted Stop Lamps for Use on Vehicles 2032 mm or More in Overall Width (March 2000).'' This standard specifies requirements for CHMSLs on heavy trucks. This standard was amended to allow combination of the CHMSL and three identification lamps. This change to J1432 first appeared in the 2001 version of the ''SAE Ground Vehicle Lighting Standards Manual.'' To maintain the conspicuity of each signal, J1432 specifies that the CHMSL must emit at least three to five times (depending on lamp position) the amount of light that the identification lamps emit.

Petitioner's Rationale: Sierra believes that, because SAE J1432 has been amended to allow the combination of CHMSLs and identification lamps on heavy trucks, FMVSS No. 108 should be changed as well. It states that if the agency were to amend the standard to allow the combination of the signal lamp configurations and also to require this combination to be moved downward to ''eye level,'' the CHMSLs would be located in a more effective position. It also believes that this would provide an economic incentive for manufacturers of heavy trucks to include CHMSLs on these vehicles.

Regarding the agency's current requirement that identification lamps be mounted ''as high as practicable,'' Sierra believes it is outdated. It states that the original reasons for this requirement were for ''visually checking a vehicle's height in order to avoid hitting a bridge or overhang'' and ''for following traffic to spot *slow moving* trucks cresting steep hills.'' Sierra states that, today, neither of these reasons makes sense. It believes that heavy trucks routinely travel as fast as regular traffic and they no longer need identification lamps to visually clear bridges and overhangs. Also, it states that ''steep hill crests have been leveled.'' No information was supplied by Sierra to support these assertions.

Agency Analysis: The agency believes there are no recommendations in Sierra's petition that would improve motor vehicle safety. Sierra has made a number of assumptions that are not based in fact. The petition references a change made to SAE J1432 that allows combination of the CHMSL and identification lamps on vehicles with a width that is 2032 mm or greater. Sierra further stated that it is aware that the agency has been adamant about not allowing any other lamps to be mounted in the same housing with a CHMSL, and that it was not aware that NHTSA had removed this prohibition. Sierra is confused as to when and how this combination (in the SAE standard) had come to be allowed.

As stated above, the CHMSLs of which Sierra speaks are auxiliary lamps under FMVSS No. 108, and as such, are not specifically regulated for vehicles that are 2032 mm or wider. The only specific criterion applicable to such supplemental stop lamps is that they not impair the effectiveness of any required lamps. Conceptually, auxiliary stop lamps should not impair the effectiveness of the required identification lamps if they perform identically to required stop lamps. One means for assuring this is for the lamps to meet SAE J1432 or the requirements in FMVSS No. 108 that apply to stop lamps. The SAE document, among other things, states that ''[t]he purpose of the high-mounted stop lamp or lamps is to provide a signal over intervening vehicles to the driver of following vehicles.'' As such, it has the same purpose as the identification lamps in that they, too, are required to be located to provide a preview over intervening vehicles.

Sierra is confused about the CHMSLs required by FMVSS No. 108 and the stop lamps that are described in SAE J1432. While the FMVSS No. 108 CHMSLs, which are required on some vehicles, are prohibited from being combined with any lamp (whether required or auxiliary, except for cargo lamps), the SAE J1432 CHMSLs are not regulated in any manner. Thus, contrary to Sierra's statement, there has never been such a rescission for the CHMSL regulated by FMVSS No. 108. More importantly, there has never been a prohibition on combining supplementary stop lamps with identification lamps.

In fact, this interpretation has been expressly stated in at least three letters issued by the agency to persons asking about such auxiliary stop lamps. The most recent was a June 1999 letter to an anonymous author which stated that:

> You have also asked whether this product [a light bar containing three identification lamps] can also incorporate ''a set of brake lights to act as a 'third eye' brake light, similar to those required for automobiles.'' In other words, the identification lamp bar would act as a supplementary stop lamp when the brakes are applied.
>
> Standard No. 108 permits supplementary lamps as long as they do not impair the effectiveness of the lighting equipment required by the standard (S5.1.3). The function of the identification lamps is to indicate the presence of a large vehicle in the roadway. This effectiveness of this function would not be impaired by an increase in intensity of the lamps when the brake pedal

is applied. Therefore, your product can incorporate a supplementary stop lamp function.

Sierra argued further that, if acceptable, it would make ''economic and safety sense'' to allow this signal combination to be used on vehicles with a width of 2032 mm or greater and to be lowered to ''eye height.'' Sierra's economic argument is that installing a CHMSL separately from the identification lamps costs more. Now that the agency has allowed the combination of supplementary stop lamps and identification lamps, Sierra asserts that the CHMSL must be in the wrong location, thus forcing the installation of a separate lamp anyway. To eliminate the need for an extra lamp, Sierra wants the combination of lamps to be lowered.

In the second part of the petition, Sierra requests that the identification lamps, as well as all signal and marker lamps mounted on the rear, be required to be mounted at eye level. Sierra indicated that ''numerous Public and Federally Financed Tests performed prove that the 'Centered, Eye Level' Location is where following Drivers focus most of their Conscience and/or Subconscious Attention, and therefore is the most 'Conspicuous' and the most effective place to locate all rear Signal Vehicle Lights, except 'Clearance' Lights * * * which should represent 'Extreme Width' * * * while also located at Eye Level.'' However, Sierra provided no specific test data to support its assertions that the aforementioned research is applicable to its suggested amendment.

While putting all lamps at eye level may seem plausible, there is no evidence that this is the most effective location. Sierra did not specify what the height should be. Eye height is different for drivers of sports cars, passenger cars, light duty trucks, large trucks, and buses. Also, a significant reason for higher mounting heights for lamps that provide signals of driver intent (stop and turn lamps) is to inform following drivers, not just the most immediately rearward one, of the vehicle's intent to stop. The agency is not prepared to initiate rulemaking to require CHMSLs on heavy trucks. If identification lamps were lowered, the purpose of uniquely identifying large vehicles with the longest possible sight preview of the lamps would be compromised. As the mounting height of identification lamps is lowered, the time that nearby drivers will have to identify the vehicle, as a heavy truck will lessen. This is contrary to the intent of the requirement.

On the other hand, the mounting height of identification lamps has been long established to be ''as high as practicable.'' This is to make nearby drivers aware of the vehicle's size. If these lamps were lowered to eye level, approaching drivers may not be able to distinguish large commercial vehicles from passenger vehicles.

Sierra has provided no convincing rationale that Standard No. 108 should be amended in the manner in which it petitioned and, in accordance with 49 CFR part 552, after review of the petition, the agency has concluded that it should not be granted. Accordingly, it denies Sierra's petition.

(49 U.S.C. 30118(d) and 30120(h); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: January 30, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–2700 Filed 2–4–03; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 68, No. 24
Wednesday, February 5, 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

Food Safety and Inspection Service

[Docket No. 03–004N]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, this notice announces the Food Safety and Inspection Service's (FSIS) intention to request an extension for and revision to a currently approved information collection package regarding exportation, transportation, and importation of meat and poultry products.

DATES: Comments on this notice must be received on or before March 31, 2003.

ADDITIONAL INFORMATION OR COMMENTS: Contact John O'Connell, Paperwork Specialist, Food Safety and Inspection Service, USDA, 300 12th Street, SW., Room 112, Washington, DC 20250–3700, (202) 720–0345.

SUPPLEMENTARY INFORMATION:

Title: Exportation, Transportation, and Importation of Meat and Poultry Products.

OMB Number: 0583–0094.

Expiration Date of Approval: 1/31/03.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS is requesting an extension and revision to the information collection package addressing meat and poultry paperwork and recordkeeping requirements regarding exportation, transportation, and importation of meat and poultry products. FSIS requires that meat and poultry establishments exporting product to foreign countries complete an export certificate. Establishments must supply the type, amount, and destination of product being exported. The information required on this form does not duplicate any information required by other Federal agencies. The form is necessary to certify to the importing countries that FSIS inspectors have inspected the product and have found it sound and wholesome. Additionally, FSIS uses the information from the form in its annual Report to Congress as required by sections 301(c)(4) and 20(e) of the FMIA and sections 27 and 5(c)(4) of the PPIA.

Meat and poultry products not marked with the mark of inspection and shipped from one official establishment to another for further processing must be transported under FSIS seal to prevent such unmarked product from entering into commerce. To track product shipped under seal, FSIS requires shipping establishments to complete a form that identifies the type, amount, and weight of the product.

A foreign country exporting meat or poultry products to the U.S. must establish eligibility for importation of product into the U.S. and annually certify that its inspection systems are ''at least equal to'' the U.S. inspection system. To maintain eligibility, a written report must be prepared monthly by a representative of the foreign inspection system for each establishment listed in the certification. Additionally, meat and poultry products intended for import into the U.S. must be accompanied by a health certificate, signed by an official of the foreign government, stating that the products have been produced by certified foreign establishments. Establishments or brokers wishing to import product into the United States must complete a form that specifies the type, amount, originating country and destination of the meat and poultry product. The amount of meat and poultry product imported into the United States is included in FSIS's annual Report to Congress. Additionally, FSIS has established procedures allowing establishments importing product to stamp such product with the inspection legend prior to FSIS inspection, if they receive FSIS prior approval.

Estimate of Burden: The public reporting burden for this collection of information is estimated to average .0773501 hours per response.

Respondents: Meat and poultry establishments, and importers and exporters.

Estimated Number of Respondents: 7,374.

Estimated Number of Responses per Respondent: 295.88866.

Estimated Total Annual Burden on Respondents: 168,769 hours.

Copies of this information collection assessment can be obtained from John O'Connell, Paperwork Specialist, Food Safety and Inspection Service, USDA, 300 12th Street, SW., Room 112, Washington, DC 20250–3700, (202) 720–5276.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS' functions, including whether the information will have practical utility; (b) the accuracy of FSIS' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both John O'Connell, Paperwork Specialist, at the address provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

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.

Additional Public Notification

This notice is designed to provide information to the public and request their comments on FSIS' information collection requirements regarding

Exportation, Transportation, and Importation of Meat and Poultry Products. Public involvement is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are made aware of this request for the extension and revision of the currently approved information collection request 0583–0094 and are informed about the mechanism for providing their comments, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update.

FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. 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 fax list 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 these various channels, FSIS is able to provide information with a much broader, more diverse audience.

For more information and to be added to the constituent fax list, fax your request to the Office of Congressional and Public Affairs, at (202) 720–5704.

Linda M. Swacina,

Associate Administrator.

[FR Doc. 03–2607 Filed 1–30–03; 5:01 pm]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

North Belts Travel Plan Projects, Helena National Forest, Lewis & Clark and Broadwater Counties, Montana

AGENCY: Forest Service, USDA.

ACTION: Cancellation notice.

SUMMARY: On May 8, 2001, a Notice of Intent (NOI) to prepare an environmental impact statement for the North Belts Travel Plan Project on the Helena and Townsend Ranger Districts of the Helena National Forest, was published in the **Federal Register** (66 FR 23230). The NOI is hereby rescinded due to changed resource conditions.

FOR FURTHER INFORMATION CONTACT: Beth Ihle, Project Leader, 415 S. Front, Townsend, MT 59644, phone 406–266–3425.

Dated: January 30, 2003.

Dwight Chambers,

Acting Forest Supervisor.

[FR Doc. 03–2653 Filed 2–4–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Medicine Bow-Routt National Forests and Thunder Basin National Grassland Jackson County, Colorado; Green Ridge Mountain Pine Beetle Analysis; Correction

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement; correction.

SUMMARY: The Forest Service published a notice of intent to prepare an environmental impact statement for the Green Ridge Mountain Pine Beetle Analysis in the **Federal Register** of August 22, 2002. The original notice designated the Regional Forester as the Responsible Official. This correction will designate the Forest Supervisor as the Responsible Official.

FOR FURTHER INFORMATION CONTACT: Terry DeLay, Brush Creek/Hayden Ranger District, PO Box 249, Saratoga, WY 82331, 307–326–2518.

Correction

In the **Federal Register** of August 22, 2002, in FR Doc. 02–21452, on page 54405, in the third column, correct the ''Responsible Official'' caption to read:

Responsible Official

Mary H. Peterson, Forest Supervisor, Medicine Bow-Routt National Forests and Thunder Basin National Grassland, 2468 Jackson Street, Laramie, Wyoming 82070, is the official responsible for making the decision on this action. She will document her decision and rationale in a record of decision.

Dated: January 29, 2003.

Richard N. Rine,

Acting Forest Supervisor.

[FR Doc. 03–2777 Filed 2–4–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Timeframe for the Section 514 Farm Labor Housing Loans and Section 516 Farm Labor Housing Grants for Off-Farm Housing for Fiscal Year 2003; Correction

AGENCY: Rural Housing Service, USDA.

ACTION: Notice; correction.

SUMMARY: The Rural Housing Service (RHS) corrects a notice published December 27, 2002 (67 FR 79030—79033). This action is taken to correct the address of the New Jersey State Office.

Accordingly, the notice published December 27, 2002, (67 FR 79030—79033), is corrected as follows:

On page 79031 in the third column, ''New Jersey State Office, Tarnsfield Plaza, Suite 22, 790 Woodland Road, Mt. Holly, NJ 08060'' should read ''New Jersey State Office, 5th Floor North Suite 500, 8000 Midlantic Dr., Mt. Laurel, NJ 08054''.

Dated: January 28, 2003.

Arthur A. Garcia,

Administrator, Rural Housing Service.

[FR Doc. 03–2660 Filed 2–4–03; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Industry and Security (BIS).

Title: Commercial Encryption Items Under the Jurisdiction of the Department of Commerce.

Agency Form Number: BXA–748P.

OMB Approval Number: 0694–0104.

Type of Request: Renewal of an existing collection.

Burden: 2,830 hours.

Average Time Per Response: 5 minutes to 7 hours per response.

Number of Respondents: 680 respondents.

Needs and Uses: This collection is authorized by section 5(h) of the Export Administration Act of 1979, as amended (EAA) and section 203(a)(2) of the International Emergency Economic Powers Act (IEEPA), and authorized under section 15(b) of the EAA and

section 203(a)(1) of the IEEPA. The Export Administration Act authorizes the President to control exports of U.S. goods and technology to all foreign destinations, as necessary for the purposes of national security, foreign policy and short supply. The International Emergency Economic Powers Act authorizes the President to take actions to deal with any unusual and extraordinary threat, which has its source in whole or substantial part outside of the United States, to the national security, foreign policy, or economy of the United States. This policy has since been implemented and updated in the Export Administration Regulations (EAR) (*see* December 30, 1996 (61 FR 68572); September 22, 1998 (63 FR 50516); December 31, 1998 (63 FR 72156); January 14, 2000 (65 FR 2492); October 19, 2000 (65 FR 62600), and June 6, 2002 (67 FR 38855)). As described in these regulations, the U.S. encryption export control policy rests on three principles: review of encryption products prior to sale, streamlined post-export reporting, and license review of certain exports of strong encryption to foreign government end-users. Consistent with these principles, national security requires that information be collected from the public as described both in this collection and in collection 0694–0088. The regulations developed by the Bureau of Industry and Security in consultation with other Federal agencies, implements the U.S. encryption export policy last revised in regulations published on June 6, 2002. This notice updates and revises the paperwork burden on the public imposed by these regulations.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, 202–482–0266, Office of the Chief Information Officer, Department of Commerce, Room 6625, 14th Street and Constitution Avenue, NW., Washington DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20230.

Dated: January 30, 2003.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–2644 Filed 2–4–03; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570–846]

Notice of Amended Preliminary Results of the Seventh New Shipper Review: Brake Rotors from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of Amended Preliminary Results of the Seventh New Shipper Review.

EFFECTIVE DATE: February 5, 2003.

FOR FURTHER INFORMATION CONTACT: Terre Keaton or Brian Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1280 or (202) 482–1766, respectively.

SUPPLEMENTARY INFORMATION:

Amended Preliminary Results

We are amending the preliminary results of the seventh new shipper review of the antidumping duty order on brake rotors from the People's Republic of China (''PRC'') to reflect a revision to the cash deposit requirements for the two companies subject to this review.

Case History

On January 8, 2003, the Department published the preliminary results of the seventh new shipper review of brake rotors from the PRC (68 FR 1031) (''preliminary results'')[1]. In the preliminary results, we failed to state accurately the cash deposit requirements for Zibo Golden Harvest Machinery Limited Company (''Golden Harvest'') and Shanxi Fengkun Metallurgical Ltd. Co. (''Shanxi Fengkun''), the two respondents in the seventh new shipper review, as explained further below.

[1] The preliminary results for the seventh new shipper review of the antidumping duty order on brake rotors from the PRC were issued concurrently with those of the fifth administrative review of the order.

Amendment of Preliminary Results

We are amending the preliminary results of the seventh new shipper review of brake rotors from the PRC to reflect a revision to the cash deposit requirements for new shippers in accordance with our recent practice. *See Final Results of the Antidumping Duty New Shipper Review in Fresh Garlic From the People's Republic of China*, 67 FR 72139 (December 4, 2002); *Final Results of Antidumping Duty New Shipper Review in Certain Forged Stainless Steel Flanges From India,* 68 FR 351 (January 3, 2003); and *Final Results of the Antidumping Duty New Shipper Review in Certain In-Shell Raw Pistachios From Iran,* 68 FR 353 (January 3, 2003). Specifically, bonding will no longer be permitted to fulfill security requirements for shipments from Golden Harvest or Shanxi Fengkun of brake rotors from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of the new shipper review. Furthermore, the following cash deposit requirements will be effective upon publication of the final results of the new shipper review for all shipments from Golden Harvest or Shanxi Fengkun of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date: (1) for subject merchandise manufactured and exported by Golden Harvest, and for subject merchandise manufactured and exported by Shanxi Fengkun, no cash deposit will be required; (2) for subject merchandise exported by either Golden Harvest or Shanxi Fengkun but not manufactured by them the cash deposit will be the PRC countrywide rate (*i.e.*, 43.32 percent). All other cash deposit requirements noted in the preliminary results remain unchanged. We are issuing and publishing these amended preliminary results and this notice in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended.

Dated: January 29, 2003.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–2793 Filed 2–4–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Honey From the People's Republic of China: Initiation of New Shipper Antidumping Duty Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Initiation of new shipper antidumping duty reviews.

EFFECTIVE DATE: February 5, 2003.

FOR FURTHER INFORMATION CONTACT: Angelica Mendoza or Donna Kinsella at (202) 482–3019 or (202) 482–0194, respectively; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351 (2002).

Background

The Department received timely requests from Shanghai Xiuwei International Trading Co., Ltd. (Shanghai Xiuwei) and Sichuan-Dujiangyan Dubao Bee Industrial Co., Ltd. (Sichuan Dubao),[1] in accordance with 19 CFR 351.214(c), for new shipper reviews of the antidumping duty order on honey from the People's Republic of China (PRC), which has a December annual anniversary month. See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Honey from the People's Republic of China, 66 FR 63670 (December 10, 2001). Shanghai Xiuwei identified itself as an exporter of honey produced by its supplier, Henan Oriental Bee Products Co., Ltd. (Henan Oriental). Sichuan Dubao identified itself as the producer of the honey it exports. As required by 19 CFR 351.214(b)(2)(i), (ii), and (iii)(A), each company identified above has certified that it did not export honey to the United States during the period of investigation (POI), and that it has never been affiliated with any exporter or producer which did export honey during the POI. Each company has further certified that its export activities are not controlled by the central government of the PRC, satisfying the requirements of 19 CFR 351.214(b)(2)(iii)(B). Pursuant to the Department's regulations at 19 CFR 351.214(b)(2)(iv), Shanghai Xiuwei and Sichuan Dubao submitted documentation establishing the date on which they first shipped the subject merchandise to the United States, the volume of that first shipment, and the date of the first sale to an unaffiliated customer in the United States.

In accordance with section 751(a)(2)(B) of the Act, as amended, and 19 CFR 351.214(d)(1), and based on information on the record, we are initiating new shipper reviews for Shanghai Xiuwei and Sichuan Dubao. It is the Department's usual practice in cases involving non-market economies to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate provide evidence of *de jure* and *de facto* absence of government control over the company's export activities. Accordingly, we will issue questionnaires to Shanghai Xiuwei and Sichuan Dubao, including a separate rates section. If the responses provide sufficient indication that Shanghai Xiuwei and Sichuan Dubao are not subject to either *de jure* or *de facto* government control with respect to their exports of honey, the review will proceed. If, on the other hand, Shanghai Xiuwei and Sichuan Dubao do not demonstrate their eligibility for a separate rate, then they will be deemed not separate from other companies that exported during the POI and the review of that respondent will be rescinded.[2]

Scope

The merchandise under review is honey from the PRC. The merchandise under review is currently classifiable under item 0409.00.00, 1707.90.90 and 2106.90.99 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under review is dispositive.

Initiation of Review

In accordance with section 751(a)(2)(B)(ii) of the Act and 19 CFR 351.214(d)(1), we are initiating new shipper reviews of the antidumping duty order on honey from the PRC. Therefore, we intend to issue the preliminary results of these reviews not later than 180 days after the date on which these reviews were initiated. We intend to issue the final results of these reviews within 90 days after the date on which the preliminary results were issued.

Pursuant to 19 CFR 351.214(g)(1)(ii)(A) of the Department's regulations, the period of review (POR) for a new shipper review initiated in the month immediately following the first anniversary month will be the period from the date of suspension of liquidation to the end of the month immediately preceding the first anniversary month.[3] Therefore, the POR for these new shipper reviews is:

Antidumping duty proceeding	Period to be reviewed
Shanghai Xiuwei International Trading Co., Ltd.	2/10/01—11/30/02
Sichuan-Dujiangyan Dubao Bee Industrial Co., Ltd.	2/10/01—11/30/02

[1] On January 23, 2003, the Department rescinded a previous new shipper review of Sichuan Dubao initiated on July 31, 2002 because Sichuan Dubao's certifications failed to identify the correct name of the exporter and producer of the subject merchandise. Sichuan Dubao therefore submitted the instant new shipper review request, which correctly identifies the exporter and producer of the subject merchandise.

[2] We note that petitioners separately requested administrative reviews of Shanghai Xiuwei and Sichuan Dubao. If for any reason the Department rescinds the new shipper reviews of Shanghai Xiuwei and/or Sichuan Dubao, we will then include Shanghai Xiuwei and/or Sichuan Dubao in the normal administrative review.

[3] The review period for Shanghai Xiuwei and Sichuan Dubao is February 10, 2001, through November 30, 2002 because the Department found critical circumstances in the underlying investigation, and liquidation was suspended beginning 90 days prior to the publication of the preliminary less than fair value determination, which occurred on May 11, 2001.

We will instruct the Customs Service to allow, at the option of the importer, the posting, until the completion of the review, of a single entry bond or security in lieu of a cash deposit for certain entries of the merchandise exported by the above-listed companies. This action is in accordance with 19 CFR 351.214(e). As Sichuan Dubao has certified that it both produced and exported the subject merchandise, we will instruct Customs to limit Sichuan Dubao's bonding option only to such merchandise for which it is both the producer and exporter. For Shanghai Xiuwei, which has identified Henan Oriental as the producer of subject merchandise for the sale under review, we will instruct Customs to limit the bonding option only to entries of subject merchandise from Shanghai Xiuwei that were produced by Henan Oriental.

Interested parties that need access to proprietary information in these new shipper reviews should submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305 and 351.306. This initiation and notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.214(d).

Dated: January 30, 2003.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 03–2794 Filed 2–4–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-583–830]

Stainless Steel Plate in Coils from Taiwan: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review.

EFFECTIVE DATE: February 5, 2003.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand, AD/CVD Enforcement, Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–3207.

SUPPLEMENTARY INFORMATION:

Background

On May 6, 2002, the Department of Commerce (''Department'') published a notice of opportunity to request an administrative review of the Antidumping Duty Order on Stainless Steel Plate in Coils from Taiwan for the period May 1, 2001 through April 30, 2002. *See Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 67 FR 30356 (May 6, 2002). On June 25, 2002, in accordance with section 751(a) of the Tariff Act of 1930, as amended (''the Act''), the Department published in the Federal Register a notice of initiation of this antidumping duty administrative review of sales by Yieh United Steel Corporation (''YUSCO'') and Ta Chen Stainless Pipe Company, Ltd. (''Ta Chen'') for the period May 1, 2001 through April 30, 2002. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation In Part*, 67 FR 42753 (June 25, 2002). The preliminary results are currently due no later than January 31, 2003.

Extension of Time Limit for Preliminary Results

The Department conducted a customs inquiry in this case. As a result of this preliminary communication with the Customs Service, the Department was recently made aware of certain information that was not previously on the record. The Department needs time to analyze this information and solicit additional information from the parties. *See* Department's January 15, 2003 letter to YUSCO. Therefore, it is not practicable to complete this review within the initial time limits mandated by section 751(a)(3)(A) of the Act, and we are extending the due date for the preliminary results by 60 days until April 1, 2003. The final results continue to be due 120 days after the publication of the preliminary results.

Dated: January 30, 2003.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 03–2792 Filed 2–4–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF DEFENSE

Department of the Air Force

Global Positioning System Joint Program Office

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of meeting.

SUMMARY: This notice informs the public that the Global Positioning System (GPS) Joint Program Office (JPO) will be hosting a technical working group meeting to discuss the new Improved Clock and Ephemeris (ICE) message. ICE message is the new GPS navigation data that will replace the current clock and ephemeris data as indicated in section 30.3.2 of previously released PIRN–200C–007B. The meeting will be a technical working group discussion that will address all aspects of ICE including specific data format, data requirements, data application and related equations, message format, user receiver needs/implications, and any issues or concerns with ICE. In order to better prepare for the meeting, the GPS JPO requests email notification from all those planning to participate in the meeting. Please submit your name, organization, and contact information to *smc.czerc@losangeles.af.mil* and include the words, ''ICE Working Group Attendee'' in the subject line of your email. More information will be posted on the GPS JPO public web site: *http://gps.losangeles.af.mil.* Click on ''Public Interface Control Working Group (ICWG).''

DATES: February 12, 2003, 0800–1700.

ADDRESSES: Los Angeles AFB, Bldg 120, Daedalian Room (in ''The Club'').

FOR FURTHER INFORMATION CONTACT: CZERC, GPS JPO System Engineering Division via email at *smc.czerc@losangeles.af.mil* or at 1–310–363–6329.

SUPPLEMENTARY INFORMATION: The civilian and military communities use the Global Positioning System, which employs a constellation of 24 satellites to provide continuously transmitted signals to enable appropriately configured GPS user equipment to produce accurate position, navigation and time information.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 03–2634 Filed 2–4–03; 8:45 am]

BILLING CODE 5001–5–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.305M]

Institute of Education Sciences; Correction

ACTION: Notice inviting applications for grants to support education research for fiscal years 2003; Correction.

On January 6, 2003, a notice inviting applications for grants to support education research was published in the **Federal Register** (68 FR 656). On page 656, in the table, the column *Due Date for Optional Letter of Intent* states that the deadline for transmittal of the letter of intent is ''March 26, 2003'' for the Teacher Quality Research program (84.305M). The *Due Date for Optional Letter of Intent* is corrected to read ''March 6, 2003.''

FOR FURTHER INFORMATION CONTACT: Harold Himmelfarb, U.S. Department of Education, 555 New Jersey Avenue, NW., room 510f, Washington, DC 20208. Telephone: (202) 219–2031 or via the Internet: *harold.himmelfarb@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 contact persons listed under **FOR FURTHER INFORMATION CONTACT.**

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at 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/nara/index.html.*

Program Authority: 20 U.S.C. 9501 *et seq.* (the ''Education Sciences Reform Act of 2002'', Title 1 of Public Law 107–279, November 5, 2002).

Dated: January 30, 2003.

Grover J. Whitehurst,

Director, Institute of Education Sciences.

[FR Doc. 03–2663 Filed 2–4–03; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7448–2]

Integrated Risk Information System (IRIS); Announcement of 2003 Program; Request for Information and Announcement of Workshop

AGENCY: Environmental Protection Agency.

ACTION: Notice; announcement of the IRIS 2003 program and request for scientific information on health effects that may result from exposure to chemical substances; announcement of the stakeholder workshop on priority-setting criteria for the assessment of chemical substances.

SUMMARY: IRIS is an Environmental Protection Agency (EPA) data base that contains EPA scientific consensus positions on human health effects that may result from chronic exposure to chemical substances in the environment. On January 9, 2002, EPA announced the 2002 IRIS agenda and solicited scientific information from the public for consideration in assessing health effects from specific chemical substances. Most of the health assessments listed in the notice are in progress or near completion. Today, EPA is adding some additional health assessments to the IRIS agenda. This notice describes the Agency's plans and solicits scientific data and evaluations for consideration in EPA's new assessments. Additional new assessments may be announced in the **Federal Register** later this year. This notice also announces a stakeholder workshop on the criteria that EPA's IRIS program uses to establish annual priorities for assessing chemical substances and provides information for observer registration.

DATES: Please submit scientific information in response to this notice in the form of an initial ''submission inventory'' in accordance with the instructions in this notice by April 7, 2003.

The stakeholder workshop on criteria for establishing priorities for assessing chemical substances for IRIS will be held March 4, 2003. This notice includes instructions for observer registration.

ADDRESSES: A ''submission inventory'' should be sent to the IRIS Submission Desk in accordance with the instructions provided under ''Submission of Information'' in this notice.

FOR FURTHER INFORMATION CONTACT: For information on the IRIS program, contact Amy Mills, Program Director, National Center for Environmental Assessment, (mail code 8601D), U.S. Environmental Protection Agency, Washington, DC 20460, or call (202) 564–3204, or send electronic mail inquiries to *mills.amy@epa.gov.* For general questions about access to IRIS or the content of IRIS, please call the IRIS Hotline at (301) 345–2870 or send electronic mail inquiries to *hotline.iris@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background

IRIS is an EPA data base containing Agency consensus scientific positions on potential adverse human health effects that may result from exposure to chemical substances found in the environment. IRIS currently provides information on health effects associated with chronic exposure to over 500 specific chemical substances.

IRIS contains chemical-specific summaries of qualitative and quantitative health information in support of the first two steps of the risk assessment process, *i.e.*, hazard identification and dose-response evaluation. IRIS information includes the reference dose for noncancer health effects resulting from oral exposure, the reference concentration for non-cancer health effects resulting from inhalation exposure, and the carcinogen assessment for both oral and inhalation exposure. Combined with specific situational exposure assessment information, the summary health hazard information in IRIS may be used as a source in evaluating potential public health risks from environmental contaminants.

The IRIS Program

EPA's process for developing IRIS consists of: (1) An annual **Federal Register** announcement of EPA's IRIS agenda and call for scientific information from the public on the selected chemical substances, (2) a search of the current literature, (3) development of health assessments and draft IRIS summaries, (4) peer review within EPA, (5) peer review outside EPA, (6) EPA consensus review and management approval, (7) preparation of final IRIS summaries and supporting documents, and (8) entry of summaries

and supporting documents into the IRIS data base.

This notice provides: (1) A list of the IRIS assessments completed in FY 2002 and early FY 2003, (2) a list of the IRIS assessments in progress that the Agency expects to complete in FY 2003–2005, (3) an update on EPA's IRIS ''needs assessment'' report, (4) an announcement of a stakeholder workshop on EPA's criteria for selecting chemical substances for the annual agenda, (5) a list of the new assessments beginning in FY 2003, and (6) instructions to the public for submitting scientific information to EPA pertinent to the development of IRIS assessments.

Assessments Completed in FY 2002 and Early FY 2003

The following assessments were completed and entered into IRIS in FY 2002 and early FY 2003. These assessments were listed in the **Federal Register** of January 9, 2002 (67 FR 1212). All health endpoints were assessed. Where information was available, both qualitative and quantitative assessments were developed.

Substance name	CAS No.
1,3-Butadiene	106–99–0
Chloroform (oral route)	67–66–3
1,1-Dichloroethylene	75–35–4
Phenol	108–95–2

Assessments in Progress

The following assessments are underway or generally complete and are planned for entry into IRIS in FY 2003 or FY 2004. Those that are likely to be delayed to FY 2005 are indicated by an asterisk (*). All of the assessments below were listed in the January 9, 2002, **Federal Register**. All health endpoints, cancer and noncancer, are being assessed unless otherwise noted. For all endpoints assessed, both qualitative and quantitative assessments are being developed where information is available. Pesticides denoted with a double asterisk (**) are having only oral reference dose and carcinogenicity endpoints assessed.

Substances denoted with a triple asterisk (***) are being evaluated for effects from acute and/or subchronic exposure, in addition to chronic exposure. These substances are part of a pilot test to evaluate the application of methods, procedures, and resource needs for adding less-than-lifetime exposure duration information to IRIS. For some substances listed, the less-than-lifetime evaluation is being initiated in FY 2003, and may therefore be completed and made available on IRIS sometime after the chronic exposure evaluation.

Substance name	CAS No.
Acetaldehyde	75–07–0
Acetone	67–64–1
Acrolein***	107–02–8
Acrylamide	79–06–1
Alachlor**	15972–60–8
Ammonium perchlorate (and other perchlorate salts).	7790–98–9
Antimony and compounds.	7440–36–0
Asbestos*	1332–21–4
Atrazine**	1912–24–9
Azinphos methyl**	86–50–0
Benzene***	71–43–2
Benzo(a)pyrene	50–32–8
Bromoxynil**	1689–84–5
Boron	7440–42–8
Cadmium	7440–43–9
Captan**	133–06–2
Carbon tetrachloride	56–23–5
Chloroethane	75–00–3
Chloroform (inhalation route).	67–66–3
Chloroprene	126–99–8
Chlorothalonil**	1897–45–6
Chlorpyrifos**	2921–88–2
Copper	7440–50–8
Cyclohexane	110–82–7
Diazinon**	333–41–5
Dibutyl phthalate***	84–74–2
Dichloroacetic acid	79–43–6
1,2-Dichlorobenzene	95–50–1
1,3-Dichlorobenzene	541–73–1
1,4-Dichlorobenzene	106–46–7
Diesel exhaust	[N.A.]
Di(2-ethylhexyl)adipate (DEHA).	103–23–1
Di(2-ethylhexyl)phthalate	117–81–7
Diflubenzuron	35367–38–5
Ethalfluralin**	55283–68–6
Ethanol	64–17–5
Ethion**	563–12–2
Ethylbenzene	100–41–4
Ethylene dibromide	106–93–4
Ethylene dichloride	107–06–2
Ethylene oxide***	75–21–8
Formaldehyde	50–00–0
Glyphosate**	1071–83–6
Hexachlorobutadiene	87–68–3
gamma-Hexachlorocyclohexane (Lindane)**.	58–89–9
Hexahydro-1,3,5-trinitrotriazine (RDX).	121–82–4
Hydrogen cyanide*	74–90–8
Hydrogen sulfide***	7783–06–4
Isopropanol	67–63–0
Methanol	67–56–1
Methidathion**	950–37–8
Methomyl**	16752–77–5
Methyl ethyl ketone	78–93–3
Methyl isobutyl ketone (MIBK).	108–10–1
Methyl parathion**	298–00–0
Methyl tert-butyl ether (MTBE).	1634–04–4
2-Methylnaphthalene	91–57–6
Metolachlor**	51218–45–2
Mirex	2385–85–5
Naphthalene (cancer effects; inh. route).	91–20–3
Nickel (soluble salts)	[N.A.—various]
Nitrobenzene	98–95–3
PAH mixtures*	[N.A.—various]
Pendimethalin**	40487–42–1
Pebulate**	1114–71–2
Pentachlorophenol	87–86–5
Perfluorooctanoic acid—ammonium salt.	3825–26–1
Perfluorooctane sulfonate—potassium salt.	2795–39–3
Phosgene***	75–44–5
Polychlorinated biphenyls (PCBs-noncancer endpoints).	1336–36–3
Propachlor**	1918–16–7
Refractory ceramic fibers	[N.A.]
Silica (crystalline)	14808–60–7
Styrene	100–42–5
2,3,7,8-TCDD (dioxin)	1746–01–6
Tetrachloroethylene (perchloroethylene).	127–18–4
Tetrahydrofuran	109–99–9
Thallium*	7440–28–0
Toluene	108–88–3
Triallate**	2303–17–5
Trichlopyr**	55335–06–3
1,1,1-Trichloroethane***	71–55–6
Trichloroethylene	79–01–6
Uranium (natural)	7440–61–1
Vinyl acetate	108–05–4
Xylenes	1330–20–7
Zinc and compounds	7440–66–6

IRIS summaries and support documents for all substances listed above will be provided on the IRIS Web site at *http://www.epa.gov/iris* as they are completed. This publicly available web site is EPA's primary location for IRIS documents. In addition, external peer review drafts of IRIS documents can be found during their peer review periods via the ''What's New'' page of the IRIS web site. Interested parties should check the ''What's New'' page frequently for the availability of these drafts.

IRIS ''Needs Assessment''

On July 20, 2001, EPA published a **Federal Register** notice (66 FR 37958) requesting public input to compile a ''needs assessment'' for planning the IRIS program. This notice requested that the public identify those chemical substances for which assessments either need to be added to IRIS or updated. The responses were considered along with EPA program priorities in the development of new starts for the FY 2003 agenda below. The notice also requested input on whether other types of evaluations are needed on IRIS such as toxicological evaluations for health effects associated with less-than-lifetime (*i.e.,* acute or subchronic) exposure durations. The notice also requested input on what priority any new type of evaluation should have compared to

evaluation of health effects associated with chronic exposures. Further, the notice asked whether or how EPA should work with external parties such as other government agencies, industries, or other organizations to develop health assessments that may be used as supporting documents for IRIS. The final ''IRIS Needs Assessment'' report will be made available on the IRIS web site when it is completed.

Stakeholder Workshop on Priority-Setting Criteria

EPA will be sponsoring a stakeholder workshop on the priority-setting criteria for selecting chemical substances for IRIS assessment. The purpose of the workshop is to get input from individuals and organizations outside of EPA on the criteria EPA uses to determine the annual IRIS agenda. Invited participants will include individuals or organizations that have previously expressed interest in the IRIS agenda through the IRIS Needs Assessment, the IRIS Submission Desk, other correspondence, or related activities. The workshop will be held March 4, 2003, from 1–5 pm at the Crystal City Marriott Hotel, 1999 Jefferson Davis Highway, Arlington, VA 22202. Versar, Inc., an EPA contractor, will convene and facilitate the workshop. To register to attend the workshop as an observer, contact Ms. Traci Bludis, Versar, Inc.; telephone: (703) 750–3000, extension 449; facsimile: (703) 642–6954; or e-mail: *bluditra@versar.com.* Space for observers may be limited, therefore, registration will be accepted on a first-come, first-served basis.

Information Requested on New Assessments for FY 2003

EPA will continue building and updating the IRIS data base. The Agency recognizes that a number of the assessments on IRIS need updating to incorporate new scientific information and methodologies. Further, many additional substances are candidates to be added to the IRIS data base. However, due to limited resources in the Agency to address the spectrum of needs, EPA developed a list of priority substances for attention beginning in FY 2003. The substances listed below are priorities for IRIS due to one or more reasons: (1) Agency statutory, regulatory, or program implementation needs; (2) new scientific information or methodology is available that might significantly change current IRIS information; (3) interest to other levels of government or the public, including interest expressed via responses to 66 FR 37958; and (4) most of the scientific assessment work has been completed while meeting other Agency requirements, and only a modest additional effort will be needed to complete the review and documentation for IRIS. Additional criteria for prioritizing chemical substances are currently under consideration for developing future IRIS agendas.

EPA may add resources to the IRIS program this year, and if so, may publish a supplement to this FY 2003 agenda with additional priority substances selected for assessment. EPA also plans to publish a solicitation later in the year for public nominations for substances to consider for assessment beginning in FY 2004.

The following IRIS health assessments have recently begun or will be started in FY 2003, with completion expected in FY 2004 or FY 2005. It is for these substances that the Agency is primarily requesting information from the public for consideration in the assessments. Unless otherwise noted, noncancer and cancer endpoints will be assessed for each substance. For all endpoints assessed, both qualitative and quantitative assessments are being developed where information is available. Substances denoted with a double asterisk (**) are being evaluated for effects from acute and/or subchronic exposure, in addition to chronic exposure. These substances, along with those similarly indicated on the previous list of assessments in progress, are part of a pilot test to evaluate the application of methods, procedures, and resource needs for adding less-than-lifetime exposure duration information to IRIS.

Substance name	CAS No.
Aldicarb/Aldicarb sulfoxide	116–06–3/1646–87–3
Aldicarb sulfone	1646–88–4
Arsenic, inorganic	7440–38–2
Bromobenzene	108–86–1
Bromodichloromethane	75–27–4
Bromoform	75–25–2
Cobalt	7440–48–4
Cryptosporidium	[N.A.]
Dibromochloromethane	124–48–1
Hexachlorocyclopentadiene*** (acute exposure only)	77–47–4
Kepone	143–50–0
Polybrominated diphenyl ethers (PBDEs):	
Decabromodiphenyl ether (deBDE)	1163–19–5
Hexabromodiphenyl ether (hxBDE)	36483–60–0
Pentabromodiphenyl ether (PeBDE)	32534–81–9
Tetrabromodiphenyl ether (TeBDE)	40088–47–9
Propionaldehyde	123–38–6
2,2,4-Trimethylpentane	540–84–1

Submission of Information

As in previous **Federal Register** notices announcing the annual IRIS agenda, EPA is soliciting public involvement in new assessments starting in FY 2003. While EPA conducts a thorough literature search for each chemical substance, there may be unpublished studies or other primary technical sources that we may not otherwise obtain through open literature searches. We would greatly appreciate receiving scientific information from the public during the information gathering stage for the list of ''new assessments'' listed above. Interested persons should provide scientific analyses, studies, and other pertinent scientific information. Also note that if you have submitted certain information previously to the IRIS Submission Desk, then there is no need to resubmit that information. While EPA is primarily soliciting information on new assessments announced in this notice, the public may submit information on any chemical substance at any time.

Procedures for Submission

Similar to the process described in the January 9, 2002, **Federal Register**, submissions will be handled in a three-step process:

1. Submission Inventory: First, you should simply provide a list within 60 days of this notice briefly identifying all the information (studies, reports, articles, etc.) you wish to submit. The list should specify by name and CASRN (Chemical Abstract Service Registry Number) the chemical substance(s) to which the information pertains, state the type of assessment that is being addressed (e.g., carcinogenicity), and a brief description of information to be submitted for consideration. Where possible, documents should be listed in scientific citation format, that is, author(s), title, journal, and date. Your cover letter should state that the correspondence is an IRIS submission. Describe in general terms the purpose of the submission and include names, addresses, and telephone numbers of person(s) to contact for additional information. Mail two copies of the submission inventory to the IRIS Submission Desk, c/o ASRC, 6301 Ivy Lane, Suite 300, Greenbelt, MD 20770.

Alternatively, you may submit the submission inventory and cover letter electronically to IRIS.desk@epa.gov. Electronic information must be submitted in WordPerfect format or as an ASCII file. Information also will be accepted on 3.5'' floppy disks. All information in electronic form must be identified as an IRIS submission.

2. EPA Replies to Submission Inventory: In the second step, EPA will compare the submission inventory to existing files and identify the information that should be submitted. This step will help prevent an influx of duplicative information. You will receive notification of whether full submission of the information is requested.

3. Full Submission of Selected Material: In the third step, you should submit the information indicated by EPA within 30 days of EPA's reply. Prompt response to EPA will ensure that your material can be considered in the assessment in a timely fashion. Submissions should include a cover letter addressing all of the points in Item 1 above. In addition, when you submit results of new health effects studies concerning existing substances on IRIS, you should include a specific explanation of how and why the study results could change the information in IRIS.

Please send two copies, at least one of which should be unbound, to the IRIS Submission Desk, as described in Item 1. The IRIS Submission Desk will acknowledge receipt of your information.

Confidential Business Information (CBI) should not be submitted to the IRIS Submission Desk. CBI material must be submitted to the appropriate EPA office via established procedures (see 40 CFR part 2, subpart B). If you believe that a CBI submission contains information with implications for IRIS, please note that in the cover letter accompanying the submission to the appropriate office.

You may also request to augment your submission with a scientific briefing to EPA staff. Such requests should be made directly to Amy Mills, IRIS Program Director (*see* **FOR FURTHER INFORMATION CONTACT**).

Dated: January 30, 2003.

George W. Alapas,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 03–2768 Filed 2–4–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7445–7]

Peer Consultation Workshop on a Proposed Asbestos Cancer Risk Assessment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meetings.

SUMMARY: This notice announces a peer consultation workshop on a proposed asbestos cancer risk assessment methodology. The purpose of the workshop is to discuss the scientific merit of the proposed methodology developed for EPA by Dr. Wayne Berman and Dr. Kenny Crump. The proposed methodology distinguishes carcinogenic potency by asbestos fiber size and asbestos fiber type and advocates use of a new exposure index to characterize carcinogenic risk. Expert panelists will discuss many relevant technical issues at the workshop, and observers also will be invited to comment. A contractor will prepare a summary report documenting the discussions of the peer consultation workshop, and this report will be publicly available and become part of EPA's administrative record for IRIS. This meeting is being sponsored by EPA's Office of Solid Waste and Emergency Response and by EPA's Office of Research and Development.

DATES: The workshop will be held on February 25–27, 2003. The workshop hours will be from 9 a.m. to 5:30 p.m. on Tuesday, February 25; from 8:30 a.m. to 5 p.m. on Wednesday, February 26; and from 8 a.m. to 12 noon on Thursday, February 27. Observer comment periods are currently scheduled on Tuesday and Wednesday.

ADDRESSES: The peer consultation workshop will be held at the Westin St. Francis Hotel, 335 Powell Street, San Francisco, California. To attend the workshop as an observer, contact Eastern Research Group (ERG) either in writing, by electronic mail, or by telephone. ERG's contact information for this workshop is: Eastern Research Group, Conference Registration, 110 Hartwell Avenue, Lexington, MA 02421–3136; phone, 781–674–7374; fax: 781–674–2906; *meetings@erg.com*.

There is no charge for attending this workshop as an observer, but observers are encouraged to register early as the number of seats will be limited. Each registrant will receive a confirmation notice, a preliminary agenda, and a logistical fact sheet that contains directions to the meeting location. Copies of the proposed asbestos cancer risk assessment methodology can be obtained prior to the meeting from the EPA, OERR web page (*www.epa.gov.superfund*).

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/CERCLA Call Center at 800–424–9346 or TDD 800–553–7672 (hearing impaired). In the Washington, DC metropolitan area, call 703–412–9810 or TDD 703–412–3323. For more detailed technical information on this conference call Richard Troast (703–603–9019) Office of Emergency and Remedial Response, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20460–0002, Mail Code 5204G.

SUPPLEMENTARY INFORMATION: EPA's current assessment of asbestos toxicity is based primarily on an asbestos assessment completed in 1986, and EPA's assessment has not changed substantially since that time. The 1986 assessment considers all mineral forms of asbestos and all asbestos fiber sizes (*i.e.*, all fibers longer than 5 micrometers) to be of equal carcinogenic potency. However, since 1986, there have been substantial improvements in asbestos measurement techniques and in the understanding of how asbestos exposure contributes to disease. To incorporate the knowledge gained over the last 17 years into the agency's toxicity assessment for asbestos, EPA oversaw the development of a revised

methodology for conducting risk assessments of asbestos. The proposed risk assessment methodology distinguishes between fiber sizes and fiber types in estimating potential health risks related to asbestos exposure. EPA is convening this peer consultation workshop to seek input from a panel of experts on the scientific merit of the proposed methodology. The experts will include scientists with extensive expertise in relevant fields, such as biostatistics, fiber identification, inhalation toxicology, and carcinogenic mechanisms. The panelists will be asked to respond to several charge questions that address key issues in the proposed methodology, including interpretations of epidemiology and toxicology literature, the proposed exposure index, and general topics. The product of the peer consultation workshop will be a report that summarizes the panelists' and observers' comments, conclusions, and recommendations on the proposed methodology.

David Lopez,

Director, Region 3/8 Support Center, OERR.

[FR Doc. 03–2767 Filed 2–4–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0012; FRL–7288–1]

Organophosphate Pesticide; Availability of Dicrotophos Interim Risk Management Decision Document

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of the interim risk management decision document for the organophosphate pesticide dicrotophos. This decision document has been developed as part of the public participation process that EPA and U.S. Department of Agriculture (USDA) are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

FOR FURTHER INFORMATION CONTACT: Laura Parsons, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5776; e-mail address: *parsons.laura@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the interim risk management decision document for dicrotophos, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. Since other entities also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0012. The official public docket consists of the document specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

For questions on the IRED in this document, contact the Chemical Review Manager listed under **FOR FURTHER INFORMATION CONTACT**.

II. What Action is the Agency Taking?

EPA has assessed the risks of dicrotophos and reached an Interim Reregistration Eligibility Decision (IRED) for this organophosphate pesticide. Provided that risk mitigation measures are adopted, dicrotophos fits into its own risk cup — its individual, aggregate risks are within acceptable levels. A restricted use chemical used mainly to control insects on cotton, dicrotophos residues in food and drinking water do not pose risk concerns. There are no residential uses and therefore dicrotophos fits into its own risk cup. To reduce worker and ecological risks, dicrotophos may no longer be applied by aerial equipment, closed mixing/loading systems and closed cabs are required, and total seasonal maximum application is limited to 0.83 lb active ingredient and only 0.5 lb of this can be applied prior to August 1 of any year. Additionally, to ensure that dicrotophos use does not increase dramatically in the future, a production cap is required to limit production to an average of the annual amount produced in 1999, 2000 and 2001. These mitigation measures are expected to reduce, but not eliminate worker and ecological risks. These risks are offset by the benefit of dicrotophos to control certain insects in cotton.

The interim risk management decision document for dicrotophos was made through the organophosphate pesticide pilot public participation process, which increases transparency and maximizes stakeholder involvement in EPA's development of risk assessments and risk management decisions. The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998, as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate pesticide risk assessments and risk management decisions. EPA and USDA began implementing this pilot process in August 1998, to increase transparency

and opportunities for stakeholder consultation.

EPA worked extensively with affected parties to reach the decisions presented in the interim risk management decision document, which conclude the pilot public participation process for dicrotophos. As part of the pilot public participation process, numerous opportunities for public comment were offered as the interim risk management decision document was being developed. The dicrotophos interim risk management decision document therefore is issued without a formal public comment period concluding review of the individual organophosphate pesticide. The docket remains open, however, and any comments submitted in the future will be placed in the public docket.

The risk assessments for dicrotophos were released to the public through notices published in the **Federal Register** on November 10, 1999 (64 FR 61332) (FRL–6393–9), and June 14, 2000 (65 FR 37371) (FRL–6593–4).

EPA's next step under FQPA is to complete a cumulative risk assessment and risk management decision for the organophosphate pesticides, which share a common mechanism of toxicity. The interim risk management decision document on dicrotophos cannot be considered final until this cumulative assessment is complete.

When the cumulative risk assessment for the organophosphate pesticides has been completed, EPA will issue its final tolerance reassessment decision for dicrotophos and further risk mitigation measures may be needed.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: January 22, 2003.

Lois A Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 03–2775 Filed 2–4–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0030; FRL–7290–6]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendments by registrants to delete uses in certain pesticide registrations. Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any request on the **Federal Register**.

DATES: The deletions are effective on August 4, 2003, unless the Agency receives a withdrawal request on or before August 4, 2003. The Agency will consider withdrawal requests postmarked August 4, 2003.

Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant on or before August 4, 2003.

ADDRESSES: Withdrawal requests may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2003–0030 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5761; e-mail address: *hollins.james@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of This Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0030. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to delete uses in certain pesticide registrations. These registrations are listed in the following Table 1 by registration number, product name/active ingredient, and specific uses deleted:

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Registration no.	Product Name	Active Ingredient	Delete From Label
000264–00328	SEVIN Brand 80% Dust Base Carbaryl Insecticide	Carbaryl	Poultry
000264–00335	SEVIN Brand RP4 Carbaryl Insecticide	Carbaryl	Poultry
001812–00353	Trilin 5	Trifluralin	Eggplant, onion uses
002749–00106	Phorate Technical	Phorate	Wheat
008119–00008	Hinder Deer & Rabbit Repellent Ready-to-Use	Ammonium salts of C8-18 & C18′ fatty acids	Soybeans and peanuts
062719–00306	Starane+Salvo	Acetic acid; fluroxpyr 1-methylheptyl ester	Oats
062719–00333	Starane+Saber	Dimethylamine 2,4D; Fluroxypyr 1-methylheptyl ester	Oats

Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before August 4, 2003 to discuss withdrawal of the application for amendment. This 180–day period will also permit interested members of the public to intercede with registrants prior to the Agency's approval of the deletion.

Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company no.	Company Name and Address
000264	Bayer CropScience LP, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709.
001812	Griffin L.L.C., Box 1847, Valdosta, GA 31603.
002749	Aceto Agriculture Chemicals Corp., One Hollow Lane, Lake Success, NY 11042.
008119	Regulatory Services Inc., Agent For: E.M. Matson Jr., Co., 17220 Westview Rd., Lake Oswego, OR 97034.
062719	Dow AgroSciences LLC, 9330 Zionsville Rd 308/2E225, Indianapolis, IN 46268.

III. What is the Agency Authority for Taking This Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for use deletion must submit such withdrawal in writing to James A. Hollins, at the address under **FOR FURTHER INFORMATION CONTACT**, postmarked on or before August 4, 2003.

V. Provisions for Disposition of Existing Stocks

The Agency has authorized the registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: January 23, 2003.

Linda Vlier Moos,

Acting Director, Information Resources and Services Division.

[FR Doc. 03–2774 Filed 2–4–03 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0019; FRL–7288–8]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by August 4, 2003, or March 7, 2003, for EPA Registration Numbers: 001812–00420; 001812–00424; 006218–00069, orders will be issued canceling these registrations.

FOR FURTHER INFORMATION CONTACT: James A. Hollins, Information Resources Services Division 7502C, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5761; e-mail address: *hollins.james@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions

regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0019. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to cancel 33 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in Table 1 of this unit:

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration Number	Product Name	Chemical Name
000100 ID–02–0018	Cyclone concentrate/gramoxone max	1,1'-Dimethyl-4,4'-bipyridinium dichloride
000241 ID–99–0006	Raptor herbicide	(+-)-2-(4,5-Dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-
000264–00456	Ethoprop (technical grade)	O-Ethyl S,S-dipropyl phosphorodithioate
000264–00465	Mocap 10% granular nematicide insecticide	O-Ethyl S,S-dipropyl phosphorodithioate
000264–00644	Whip 1 EC herbicide	2-(4-((6-Chloro-2-benzoxazolyl)oxy)phenoxy)propionic acid, ethyl ester, (+-)
000264 FL–85–0001	Mocap nematacide - insecticide 10% granular	O-ethyl S,S-dipropyl phosphorodithioate
000264 ME–93–0003	Mocap 10% granular nematicide - insecticide	O-ethyl S,S-dipropyl phosphorodithioate
000400 NE–02–0005	Dimilin 2L	1-(4-Chlorophenyl)-3-(2,6-difluorobenzoyl)urea
000400 OR–02–0008	Dimilin 2L	1-(4-Chlorophenyl)-3-(2,6-difluorobenzoyl)urea
000400 WA–02–0006	Dimilin 2L	1-(4-Chlorophenyl)-3-(2,6-difluorobenzoyl)urea
001812–00420	Griffin boa herbicide	1,1'-Dimethyl-4,4'-bipyridinium dichloride
001812–00424	Griffin boa concentrate	1,1'-Dimethyl-4,4'-bipyridinium dichloride
006218–00069	Summit Permacide	O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
028293–00086	Unicorn dairy spray for milk houses and animals	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
028293–00094	Unicorn automatic sequential insecticide	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
028293–00156	Unicorn pet shampoo III	Cyclopropanecarboxylic acid, 3-(2,2-dichloroethenyl)-2,2-dimethyl
028293–00157	Unicorn pyfen fogger	N-Octyl bicycloheptene dicarboximide
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration Number	Product Name	Chemical Name
		4-Chloro-alpha-(1-methylethyl) benzeneacetic acid, cyano(3-phenoxyphenyl)methyl
028293–00168	Unicorn 7900	Iodine
028293–00170	Unicorn 7920	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16)
		Didecyl dimethyl ammonium chloride
		Octyl decyl dimethyl ammonium chloride
		Dioctyl dimethyl ammonium chloride
028293–00171	Unicorn 7930	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16)
		Didecyl dimethyl ammonium chloride
		Octyl decyl dimethyl ammonium chloride
		Dioctyl dimethyl ammonium chloride
028293–00172	Unicorn flea and tick shampoo	(Butylcarbityl)(6-propylpiperonyl) ether and related compounds 20%
		Pyrethrins
028293–00184	Unicorn liquid plant spray #2	Pyrethrins
		Cyclopropanecarboxylic acid, 3-(2,2-dichloroethenyl)-2,2-dimethyl
028293–00186	Unicorn (vegetable and ornamental) spray #2	(S-(R*,R*))-4-Chloro-alpha-(1-methylethyl)benzeneacetic acid,
028293–00187	Unicorn vegetable spray concentrate	(S-(R*,R*))-4-Chloro-alpha-(1-methylethyl)benzeneacetic acid,
028293–00189	Unicorn fogger #7	*N*-Octyl bicycloheptene dicarboximide
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
		(S-(R*,R*))-4-Chloro-alpha-(1-methylethyl)benzeneacetic acid
028293–00193	Unicorn fogger #5	2-Methyl-4-oxo-3-(2-propenyl)-2-cyclopenten-1-yl d-trans-2,2-dimethyl
		(S-(R*,R*))-4-Chloro-alpha-(1-methylethyl)benzeneacetic acid
028293–00262	Unicorn ear miticide IV	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
046813–00020	CCL wasp and hornet killer	(1-Cyclohexene-1,2-dicarboximido)methyl 2,2-dimethyl-3-(2-methylpropenyl)cycloprop
		(3-Phenoxyphenyl)methyl d-cis and trans* 2,2-dimethyl-3-(2-methylpropenyl)cyclopro
049403–00004	Nipa BCP disinfectant	2-Benzyl-4-chlorophenol
049403–00005	Sanco-phene	2-Benzyl-4-chlorophenol
		4-Tert-amylphenol
		O-phenylphenol
062719–00245	Lorsban 4E–SG	O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate
062719 ID–95–0018	Transline	3,6-Dichloro-2-pyridinecarboxylic acid alkanolamine salts (of ethanol

Unless a request is withdrawn by the registrant within 180 days of publication of this notice, or 30 days where indicated, orders will be issued canceling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during the indicated comment period.

In accordance with the December 2000, Diazinon Memorandum of Agreement, the cancellation order shall become effective 30 days after the date of this **Federal Register** and the distribution or sale of existing stocks by the registrant of EPA registration number 006218–0069, which bears instructions for indoor use, shall not be lawful under FIFRA as of the effective date of the cancellation order, except for the purposes of shipping such stocks for export consistent with Section 17 of FIFRA or for proper disposal. The distribution or sale of existing stocks of EPA registration number 006218–0069 by any person other than the registrant will not be lawful under FIFRA after December 31, 2002, except for the purpose of shipping such stocks for export consistent with Section 17 of FIFRA or for proper disposal.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number:

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company Number	Company Name and Address
000100	Syngenta Crop Protection, Inc., Box 18300, Greensboro, NC 27419
000241	BASF Corp., Box 13528, Research Triangle Park, NC 27709
000264	Bayer CropScience LP, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709
000400	Crompton MFG. Co., Inc., 74 Amity Rd, Bethany, CT 06524
001812	Griffin L.L C., Box 1847, Valdosta, GA 31603
006218	Summit Chemical Co, Summit Responsible Solutions, 7657 Canton Center Drive, Baltimore, MD 21224
028293	Unicorn Laboratories, 12385 Automobile Blvd., Clearwater, FL 33762
046813	John Roach, Agent For: K-G Packaging, Inc., 24931 Winoa, Dearborn, MI 48124
049403	Lewis and Harrison, Agent For: Clariant Corp., 122 C St NW Ste 740, Washington, DC 20001
062719	Dow AgroSciences LLC, 9330 Zionsville Rd 308/2E225, Indianapolis, IN 46268

III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before August 4, 2003, or March 7, 2003 for EPA Registration Numbers: 001812–00420; 001812–00424; 006218–00069.

This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the product(s) have been subject of a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1–year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in the **Federal Register** of June 26, 1991 (56 FR 29362) (FRL–3846–4). Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold, or used legally until they are exhausted, provided that such further sale and use comply with the EPA approved label and labeling of the affected product. Exception to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in a Special Review action, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: January 22, 2003.

Linda Vlier Moos,

Acting Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 03–2772 Filed 2–4–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0081; FRL–7287–5]

Imidacloprid; Notice of Filing Pesticide Petitions to Establish Tolerances for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket ID number OPP–2002–0081, must be received on or before March 7, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Sidney Jackson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7610; e-mail address: *jackson.sidney@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in OPP–2002–0081. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2002–0081. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I. B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that

is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2002–0081. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2002–0081. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2002–0081.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID Number OPP–2002–0081. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 24, 2003.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

The petitioner's summaries of the pesticide petitions are printed below as required by FFDCA section 408(d)(3). The summaries of the petitions were prepared by Bayer Corporation and represents the view of the company. The petitions summaries announce the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed. The Interregional Research Project No. 4 (IR–4) assembled and submitted the petitions to EPA on behave of the Bayer Corporation.

Interregional Research Project Number 4 and Bayer Corporation

PP 1E6268, PP 1E6254, PP 1E6237, PP 1E6225, PP 0E6203, PP 2E6403, PP 2E6406, PP 2E6409, PP 2E6417, PP 2E6421, PP 2E6435, PP 2E6414, PP 2E6458, and PP 2E6506

EPA has received pesticide petitions from the Interregional Research Project Number 4 (IR–4), Technology Centre and Rutgers State University of New Jersey, 681 U.S. Highway #1 South, North Brunswick, NJ 08902–3390 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180.472 by establishing tolerances for the combined residues of imidacloprid, 1-(6-chloro-3-pyridinyl)methyl-*N*-nitro-2-imidazolidinimine, and its metabolites containing the 6-chloropyridinyl moiety, all expressed as imidacloprid in or on the raw agricultural commodities as follows:

1. PP 1E6268 proposes tolerances for bushberry subgroup 13B and lingonberry, juneberry, and salal at 3.5 parts per million (ppm).

2. PP 1E6254 proposes a tolerance for okra at 1.0 ppm.

3. PP 1E6237 proposes a tolerance for watercress at 3.5 ppm.

4. PP 1E6225 proposes a tolerance for artichoke at 2.5 ppm.

5. PP 0E6203 proposes a tolerance for cranberry at 0.05 ppm.

6. PP 2E6403 proposes a tolerance for vegetable, legume, except soybean, group 6 at 4.0 ppm.

7. PP 2E6406 proposes tolerances for avocado, papaya, star apple, black sapote, mango, sapodilla, canistel, and mamey sapote at 1.0 ppm, and lychee, longan, Spanish lime, rambutan, pulasan, and persimmon at 3.0 ppm.

8. PP 2E6409 proposes a tolerance for vegetable, leaves of root and tuber, group 2 at 4.0 ppm.

9. PP 2E6417 proposes a tolerance for strawberry at 0.5 ppm.

10. PP 2E6421 proposes a tolerance for fruit, stone, group 12 at 3.0 ppm.

11. PP 2E6435 proposes tolerances for guava, feijoa, jaboticaba, wax jambu, starfruit, passionfruit, and acerola at 1.0 ppm.

12. PP 2E6414 proposes tolerances for corn, pop, grain at 0.05 ppm and corn, pop, stover at 0.2 ppm.

13. PP 2E6458 proposes a tolerance for mustard seed at 0.05 ppm.

14. PP 2E6506 proposes a tolerance for vegetable, root, and tuber, except sugar beet, group 1 at 0.4 ppm.

EPA has determined that the petitions contain data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petitions. Additional data may be needed before EPA rules on the petitions. Bayer Corporation, Crop Protection, Kansas City, MO 64120–0013 produces the imidacloprid product(s) of concern for these pending tolerances.

A. Residue Chemistry

1. *Plant metabolism*. The nature of the imidacloprid residue in plants and livestock is adequately understood. The residues of concern are combined residues of imidacloprid and it metabolites containing the 6-chloropyridinyl moiety, all calculated as imidacloprid.

2. *Analytical method*. The analytical method is a common moiety method for imidacloprid and its metabolites containing the 6-chloropyridinyl moiety using a permanganate oxidation, silyl derivatization, and capillary gas chromatography/mass spectrometry (GC/MS) selective ion monitoring. This method has successfully passed a petition method validation in EPA labs. There is a confirmatory method specifically for imidacloprid and several metabolites utilizing GC/MS and high performance liquid chromotography/ using ultra-violet detection (HPLC/UV) which has been validated by EPA as well. Imidacloprid and its metabolites are stable for at least 24 months in the commodities when frozen.

3. *Magnitude of residues*. Bushberry subgroup, lingonberry, juneberry, and salal. IR–4 has received requests from Maine for imidacloprid use on lowbush blueberries and from New Jersey, Delaware, Michigan, and South Carolina for use on high bush blueberries. Two field trials were performed on lowbush blueberries and nine trials on highbush blueberries to support the requested tolerance of 3.5 ppm.

- *Okra*. No data was submitted in support of this tolerance petition; rather, IR–4 proposes that EPA, utilizes the registrant's fruiting vegetable data (peppers and tomatoes). IR–4 believes this approach is justified based upon the similarities of okra to members of the fruiting vegetable crop group. It is noteworthy that okra is classified as a fruiting vegetable under CODEX.
- *Watercress*. IR–4 received a request from the Florida Agricultural Experiment Station for the registration of imidacloprid on watercress. No watercress data were presented in support of this petition; rather, IR–4 requests that EPA utilizes the registrant's head and leaf lettuce data to support the proposed watercress tolerance of 3.5 ppm.
- *Artichoke*. IR–4 has received requests from California for the use of imidacloprid on artichoke. To support this request and the proposed tolerance of 2.5 ppm, magnitude of residue data were collected from three field trials in California.
- *Cranberry*. IR–4 received a request from Massachusetts for the use of imidacloprid on cranberries. To support this request and the proposed tolerance for strawberry at 0.05 ppm. IR–4 conducted five field trials in the states of Massachusetts, New Jersey, Wisconsin, and Oregon.
- *Peas*. IR–4 received a request from Washington, Oregon, and Delaware for the use of imidacloprid on peas. In support of this request, field trials were conducted in Wisconsin, Ohio, Washington, Maryland, New Jersey, and California.
- *Mamey sapote*. IR–4 received a request from Florida for the use of imidacloprid on mamey sapote. In support of this request, two field trials were conducted in southern Florida.
- *Leaves of root and tuber crop group*. IR–4 received a request from Oregon and California for the use of imidacloprid on beets. In support of this request, magnitude of residue data were collected from field trials conducted in Texas, Ohio, New Jersey, Oregon, and Indiana. Data from beet tops were combined with the previously submitted petition for turnip tops to support a tolerance for leaves of root and tuber vegetables.
- *Stone fruit*. IR–4 received requests from Utah, Washington, Michigan, and Oregon for the use of imidacloprid on cherries, Michigan and Washington for the use of imidacloprid on peaches, and Michigan for the use of imidacloprid on plums. Magnitude of residue data were collected on these crops to support a stone fruit crop group tolerance.
- *Strawberry*. IR–4 received requests from Oregon, Mississippi, Michigan, Wisconsin, and North Carolina for the use of imidacloprid on strawberries. In support of this requested tolerance, magnitude of residue trials were conducted in Florida, California, New Jersey, Wisconsin, and Oregon.
- *Dry beans*. IR–4 received requests from New York, Washington, Wisconsin, Georgia, California, and Idaho for the use of imidacloprid on dry beans. In support of this request, magnitude of residue trials were conducted in Washington, North Dakota, New York, Wisconsin, and California.
- *Guava and related crops (feijoa, jaboticaba, wax jambu, starfruit,*

passion fruit, and acerola). IR–4 received a request from Florida for the use of imidacloprid on guava. Magnitude of the residue data were collected from Florida on guava to support a tolerance on guava and related crops.

- *Corn, pop.* No crop-specific data were submitted with the petition proposing imidacloprid tolerances on popcorn. IR–4 proposes that EPA translates residue data from field corn to popcorn in order to establish the requested tolerances.
- *Mustard seed*. No crop-specific data are being submitted with this petition proposing an imidacloprid tolerance on mustard seed. IR–4 proposes that EPA translates residue data from canola to mustard seed in order to establish the tolerance based upon the botanical and cultural similarities of the crops. Additionally, Canada has a crop group for oil seeds (crop group 20) which contains mustard seed and has canola as one of the representative commodities.

B. Toxicological Profile

EPA has evaluated the available imidacloprid toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the reliability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by imidacloprid is discussed in Unit II.A. of the final rule on imidacloprid pesticide tolerances published in the **Federal Register** of September 18, 1998 (63 FR 49837) (FRL–6027–1). Please refer to this document should you desire detailed toxicological information on imidacloprid.

1. *Animal metabolism*. The metabolism of NTN 33893 (imidacloprid) in rats was reported in seven studies. The data show that imidacloprid was rapidly absorbed and eliminated in the excreta (90% of the dose within 24 hours), demonstrating no biologically significant differences between sexes, dose levels, or route of administration. Elimination was mainly renal (70–80% of the dose) and fecal (17–25%). The major part of the fecal activity originated in the bile. Total body accumulation after 48 hours consisted of 0.5% of the radioactivity with the liver, kidney, lung, skin, and plasma being the major sites of accumulation. Therefore, bioaccumulation of imidacloprid is low in rats. Maximum plasma concentration was reached between 1.1 and 2.5 hours. Two major routes of biotransformation were proposed for imidacloprid. The first route included an oxidative cleavage of the parent compound rendering 6-chloronicotinic acid and its glycine conjugate. Dechlorination of this metabolite formed the 6-hydroxynicotinic acid and its mercapturic acid derivative. The second route included the hydroxylation followed by elimination of water of the parent compound rendering NTN 35884. A comparison between [methylene-^{14}C-]imidacloprid and [imidazolidine-4,5-^{14}C]imidacloprid showed that while the rate of excretion was similar, the renal portion was higher with the imidazolidine-labeled compound. In addition, accumulation in tissues was generally higher with the imidazolidine-labeled compound.

A comparison between imidacloprid and one of its metabolites, WAK 3839, showed that the total elimination was the same for both compounds. The proposed metabolic pathways for these two compounds were different. WAK 3839 was formed following pretreatment (repeated dosing) of imidacloprid.

2. *Endocrine disruption*. The toxicology data base for imidacloprid is current and complete. Studies in this data base include evaluation of the potential effects on reproduction and development, and an evaluation of the pathology of the endocrine organs following short- or long-term exposure. These studies revealed no primary endocrine effects due to imidacloprid.

C. Aggregate Exposure

1. *Dietary exposure*. Assessments were conducted to evaluate potential risks due to chronic and acute dietary exposure of the U.S. population and selected population subgroups to residues of imidacloprid. These analyses cover all registered crops including rotational crops; uses pending with EPA Registration Division's 2002 work plan including dry beans, peas, bushberries, lingonberry, juneberries, salal, carrots, turnips, okra, cranberries, artichoke (globe), watercress, beet roots, leaves of root and tuber vegetables, stone fruit, mamey sapote, guava, feijoa, jaboticaba, wax jambu, starfruit, passion fruit, acerola, strawberry, cucumber (greenhouse), and tomato (greenhouse), and an import tolerance petition on bananas, active and proposed section 18 uses on blueberries, cranberries, table beets, strawberries and turnips.

Novigen sciences, Inc.'s Dietary Exposure Evaluation Model (DEEM™), which is licensed to Bayer Corporation, was used to estimate the chronic and acute dietary exposure. This software uses the food consumption data from the 1994–1998 United States Department of Agriculture (USDA) Continuing Surveys of Food Intake by Individuals (CSFII).

The endpoint for acute dietary risk assessments is based on neurotoxicity characterized by decreases in motor or locomotor activity in female rats at 42 milligrams/kilogram body weight/day (mg/kg bwt/day) (the lowest observed adverse effect level (LOAEL) from an acute neurotoxicity study). Based on an uncertainty factor (UF) of 10x for interspecies and 10x for intraspecies, the acute reference dose (RfD) = 0.42 mg/kg bwt/day. EPA has determined that an additional UF for FQPA (reduced to 3x) applies to all population subgroups for acute risk. Application of the additional 3x safety factor results in an acute population adjusted dose (aPAD) 0.14 mg/kg bwt/day or a margin of exposure (MOE) of 300.

For chronic dietary analyses, EPA has established the RfD for imidacloprid at 0.057 mg/kg/day based on a no-observed adverse effect level (NOAEL) of 5.7 mg/kg bwt/day from a rat chronic toxicity carcinogenicity study and UF of 10x for interspecies and 10x for intraspecies. EPA has determined that an additional UF for FQPA (reduced to 3x) applies to all population subgroups for chronic risk. Application of the additional 3x safety factor results in a chronic population adjusted dose (cPAD) of 0.019 mg/kg bwt/day.

The registrant believes that results from the acute and chronic dietary exposure analyses described below demonstrate a reasonable certainty that no harm to the overall U.S. population or any population subgroup will result from the use of imidacloprid on currently registered and pending uses.

i. *Food*. Acute and chronic (Tier 3) risk assessments were made using the results of field trials conducted at maximum label application rates and the shortest pre-harvest intervals. For some of the vegetable crops, the residue data were collected at 1.5x or greater than the maximum label rate of 0.5 lb active ingredient/acre per season. In addition, no adjustments were made to account for dissipation of residues during storage, transportation from the field to the consumer, washing or peeling. Therefore, the actual dietary exposure will be less than that presented here.

For the chronic analysis, mean field trial residues were calculated. For the acute Monte Carlo analysis, the entire distribution of residue field trial data were used for the ''non-blended'' and ''partially blended'' foods as determined by EPA's standard operating procedure (SOP) 99.6. For the foods considered as

''blended'' by EPA's Health Effects Division (HED) SOP 99.6, mean field trial residue data were used. As allowed in EPA's draft guidance for submission of probabilistic human health exposure assessments one half limit of detection limit of detection (LOD) limit of quantitation (LOQ) values were used for all non-detected values (values below the sensitivity of the method).

ii. *Acute*. Bayer Corporation's acute Monte Carlo dietary exposure assessment estimated percent of the aPAD and corresponding MOE for the overall U.S. population (all seasons) and various subpopulations. In this analysis, the exposure for the total U.S. population was equal to 7.73% of the aPAD at the 99.9th percentile. The most highly exposed population subgroup, children (1 to 6 yrs), had an exposure equal to 16.42% of the aPAD at the 99.9th percentile. Therefore, the acute dietary exposure estimates are below EPA's level of concern (LOC) for the overall U.S. population as well as the various subpopulations.

iii. *Chronic*. The Bayer Corporation chronic dietary exposure estimated the percent of the cPAD for the overall U.S. population (all seasons) and various subpopulations. In this analysis, the exposure for the total U.S. population was equal to 1.4% of the cPAD. The most highly exposed population subgroup, children (1 to 6 yrs), had an exposure equal to 3.0% of the cPAD. Therefore, the chronic exposure estimates are below EPA's LOC for the overall U.S. population as well as the various subpopulations.

iv. *Drinking water*. EPA, as published in the **Federal Register** of April 10, 2001 (69 FR 18554) (FRL–6777–6), calculated acute and chronic drinking water levels of concern (DWLOC) and compared them with the estimated environmental concentrations (EECs) for surface water and ground water. Based on this comparison, they determined that acute exposure and chronic exposure would not be expected to exceed the aPAD and cPAD, respectively. It is not expected that the additional exposure from the minor crops pending in EPA's 2002 work plan would significantly change EPA's water assessment.

2. *Non-dietary exposure*—i. *Residential turf*. Bayer Corporation has conducted an exposure study to address the potential exposures of adults and children from contact with imidacloprid treated turf. The population considered to have the greatest potential exposure from contact with pesticide treated turf soon after pesticides are applied are young children. Margins of safety (MOS) of 7,587–41,546 for 10–year old children and 6,859–45,249 for 5–year old children were estimated by comparing dermal exposure doses to the imidacloprid no-observable effect level of 1,000 mg/kg/day established in a 15–day dermal toxicity study in rabbits. The estimated safe residue levels of imidacloprid on treated turf for 10–year old children ranged from 5.6 - 38.2 grams/centimeters (g/cm^2) and for 5–year old children from 5.1 - 33.5 g/cm^2. This compares with the average imidacloprid transferable residue level of 0.080 g/cm^2 present immediately after the sprays have dried. The data indicate that children can safely contact imidacloprid-treated turf as soon after application as the spray has dried.

ii. *Termiticide*. Imidacloprid is registered as a termiticide. Due to the nature of the treatment for termites, exposure would be limited to that from inhalation and was evaluated by EPA and the Bayer Corporation. Data indicate that the MOS for the worst case exposures for adults and infants occupying a treated building who are exposed continuously (24 hours/day) are 8.0 x 10^7 and 2.4 x 10^8, respectively - and exposure can thus be considered negligible.

iii. *Tobacco smoke*. Studies have been conducted to determine residues in tobacco and the resulting smoke following treatment. Residues of imidacloprid in cured tobacco following treatment were a maximum of 31 ppm (7 ppm in fresh leaves). When this tobacco was burned in a pyrolysis study only 2% of the initial residue was recovered in the resulting smoke (main stream plus side stream). This would result in an inhalation exposure to imidacloprid from smoking of approximately 0.0005 mg per cigarette. Using the measured subacute rat inhalation NOAEL of 5.5 milligrams/meters (mg/m^3), it is apparent that exposure to imidacloprid from smoking (direct exposure and/or indirect exposure) would not be significant.

iv. *Pet treatment*. Human exposure from the use of imidacloprid to treat dogs and cats for fleas has been addressed by EPA. Bayer Corporation believes, that due to the fact that imidacloprid is not an inhalation or dermal toxicant and that while dermal absorption data are not available, imidacloprid is not considered to present a hazard via the dermal route.

D. Cumulative Effects

Imidacloprid is a chloronicotinyl insecticide. At this time, EPA has not made a determination that imidacloprid and other substances that may have a common mechanism of toxicity would have cumulative effects. Therefore, for these tolerance petitions, Bayer Corporation assumes that imidacloprid does not have a common mechanism of toxicity with other substances and only the potential risks of imidacloprid in its aggregate exposure are considered.

E. Safety Determination

1. *U.S. population*. EPA has considered data from developmental toxicity studies in the rat and rabbit and a 2–generation reproduction study in the rat. These studies are discussed in the toxicological profile section of Unit II. of the **Federal Register** dated September 18, 1998 (63 FR 49837). The developmental toxicity data demonstrated no increased sensitivity of rats or rabbits to *in utero* exposure to imidacloprid. In addition, the multi-generation reproductive toxicity study did not identify any increased sensitivity of rats to *in utero* or postnatal exposure. Parental NOAELs were lower or equivalent to developmental or offspring NOAELs. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional ten-fold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margin of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard UF (usually 100 for combined interspecies and intraspecies variability) and not the additional ten-fold MOE/UF when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/SF.

Although developmental toxicity studies showed no increased sensitivity in fetuses as compared to maternal animals following *in utero* exposures in rats and rabbits, no increased sensitivity in pups as compared to adults was seen in the 2–generation reproduction toxicity study in rats, and the toxicology data base is complete as to core

requirements, EPA has determined that the additional SF for the protection of infants and children will be retained but reduced to 3x based on the following weight-of-the-evidence considerations relating to potential sensitivity and completeness of the data:

- There is concern for structure activity relationship. Imidacloprid, a chloronicotinyl compound, is an analog to nicotine and studies in the published literature suggest that nicotine, when administered causes developmental toxicity, including functional deficits, in animals and/or humans that are exposed *in utero*.
- There is evidence that imidacloprid administration causes neurotoxicity following a single oral dose in the acute study and alterations in brain weight in rats in the 2–year carcinogenicity study.
- The concern for structure activity relationship along with the evidence of neurotoxicity dictates the need of a developmental neurotoxicity study for assessment of potential alterations on functional development.

Because a developmental neurotoxicity study potentially relates to both acute and chronic effects in both the mother and the fetus, EPA has applied the additional UF for FQPA for all population subgroups, and in both acute and chronic risk assessments.

Based on the exposure assessments described above and on the completeness and reliability of the toxicity data, Bayer Corporation has concluded that the dietary exposure estimates from all label and pending uses of imidacloprid are 7.73% of the aPAD at the 99.9th percentile and 1.4% of the cPAD for the U.S. population. Thus, Bayer Corporation has concluded that there is a reasonable certainty that no harm will result from aggregate exposure to imidacloprid residues.

2. *Infants and children*. Based on the exposure assessments described above for the safety determination of the U.S. population and on the completeness and reliability of the toxicity data, Bayer Corporation has concluded that the dietary exposure estimates from all label and pending uses of imidacloprid are 16.42% of the aPAD at the 99.9th percentile and 3.0% of the cPAD for the most sensitive population subgroup, children 1 to 6 years. Thus, Bayer Corportion has concluded that there is a reasonable certainty that no harm will result from aggregate exposure to imidacloprid residues.

F. International Tolerances

No Codex maximum residue levels have been established for residues of imidacloprid on any crops currently pending at EPA.

FR Doc. 03–2773 Filed 2–4–03; 8:45 a m]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7448–3]

Jack Goins Waste Oil Superfund Site/ Cleveland,Tennessee; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has proposed to settle claims for response costs at the Jack Goins Waste Oil Superfund Site (Site) located in Cleveland, Tennessee, with Jack L. Goins, Susie T. Goins, Jack Goins Waste Oil Pumping Service, and Frances L. Lockmiller. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region IV, Waste Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562–8887.

Written comment may be submitted to Mr. Greg Armstrong at the above address within 30 days of the date of publication.

Dated: January 15, 2003.

Anita L. Davis,

Acting Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 03–2769 Filed 2–4–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011510–017.

Title: West African Discussion Agreement.

Parties: Atlantic Bulk Carriers, Ltd., HUAL AS, A.P. Moller Maersk Sealand, Mediterranean Shipping Company, P&O Nedlloyd Limited, Safmarine Container Lines NV, Zim Israel Navigation Company Ltd.

Synopsis: The amendment adds Safmarine Container Lines as a party to the agreement effective February 1, 2003.

Agreement No.: 011802–001.

Title: Evergreen/Lloyd Triestino/ Hatsu Marine Alliance-WTSA Bridging Agreement.

Parties: The Evergreen/Lloyd Triestino/Hatsu Marine Alliance Agreement, Westbound Transpacific Stabilization Agreement.

Synopsis: The amendment updates the membership of the Westbound Transpacific Stabilization Agreement.

Agreement No.: 011839.

Title: Med-Gulf Space Charter Agreement.

Parties: Compania Chilena de Navegacion Interoceanica, Compania Sud-Americana de Vapores S.A., Lykes Lines Limited LLC.

Synopsis: The proposed agreement authorizes Lykes to charter space to the other parties in the trade between U.S. Gulf ports, including Miami, Florida, and San Juan, Puerto Rico, on the one hand, and ports in Spain, Italy, and Mexico, on the other hand.

Agreement No.: 201026–002.

Title: Port of New Orleans/P&O Ports Lease.

Parties: Port of New Orleans, P&O Ports Louisiana, Inc.

Synopsis: The modification expands the leased premises under the basic lease. The additional space may be used on an as-needed basis.

By Order of the Federal Maritime Commission.

Dated: January 31, 2003.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–2791 Filed 2–4–03; 8:45 am]

BILLING CODE 6730–01–P

GENERAL SERVICES ADMINISTRATION

Office of Management Services

Paper Requirement for Office of Personnel Management (OPM) Standard Forms

AGENCY: Office of Management Services, GSA.

ACTION: Notice.

SUMMARY: Currently the Office of Personnel Management (OPM) requires that certain OPM promulgated Standard Forms, when electronically generated, be reproduced on specified color paper. Although OPM prefers to receive the forms on colored paper, they are waiving this requirement on electronically generated forms. The following statement however, must appear on these forms: ''This is the electronic version of the form.''

For duplicated forms, individuals should try to reproduce on the specified colored paper. This will increase processing time, but forms duplicated on white paper will still be accepted.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

DATES: Effective February 5, 2003.

Dated: January 27, 2003.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 03–2809 Filed 2–4–03; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–03–41]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

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. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Development of an Assistive Technology and Environmental Assessment Instrument for National Surveys—New—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC). Recent Federal policy initiatives have targeted the removal of environmental barriers and increased access to assistive and universally designed technologies in order to increase participation in major life activities by persons of all ages with disabilities. Yet, few statistics are available to quantify the potential demand for assistive technologies and no criteria exist to evaluate the potential impact of broadened access.

CDC is seeking OMB approval to cognitively test and pilot a survey instrument that collects information on disabled persons' access to, and use of, assistive technologies and environmental modifications that can be implemented in national health surveys. This information will help policy makers and scientists understand the interface among disability, assistive devices, and environmental modifications. Through a cooperative agreement with the National Institute on Aging, the Office of the Assistant Secretary for Planning and Evaluation has funded researchers at the Polisher Research Institute and Johns Hopkins University to develop the new measures to be tested. The testing will be conducted by the National Center for Health Statistics with funding from the Office of the Assistant Secretary for Planning and Evaluation, DHHS.

Approximately 300 interviews will be conducted with adults with disabilities living in the community. These interviews will be 45 minutes in length. To the extent possible, different modes of administration will be utilized (*e.g.* in-person, telephone, or mixed) and racially diverse samples of persons with disabilities in both rural and urban settings will be selected to maximize the sensitivity of the instrument across diverse populations. There is no cost to the respondents other than their time.

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Adult with Disabilities	300	1	45/60	225
Total				225

Dated: January 30, 2003.

Thomas Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–2781 Filed 2–4–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–03–40]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

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. Send comments to Anne O'Connor , CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Examining the Effectiveness of HIV Prevention Messages—New—National Center for HIV, STD, and TB Prevention (NCHSTP), Centers for Disease Control and Prevention (CDC). This project involves the development and cognitive testing of HIV prevention messages in the format of computerized brochures. The efficacy of various types of prevention messages will be evaluated in three experimental studies with populations at risk of acquiring or transmitting HIV. The studies will test different ways of communicating, framing and presenting HIV prevention messages. Outcomes to be examined include the extent to which the message is considered acceptable, comprehensible, and credible by the intended audience, as well as the extent to which the message influences knowledge, attitudes, and readiness or intentions to reduce or eliminate risk behaviors. Data will be collected using audio-computer assisted self-interviews. The results will be used by CDC, and other organizations and researchers to inform prevention activities. There is no cost to the respondents.

Form	No. of respondents	No. of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Eligibility Screener	1600	1	15/60	400
Message Complexity Study Questionnaire	200	1	1	200
Message Framing Study Questionnaire	600	1	1	600
Message Presentation Study Questionnaire	450	1	1	450
Total				1650

Dated: January 30, 2003.

Thomas Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–2782 Filed 2–4–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Advisory Committee on Children and Terrorism, Department of Health and Human Services, Centers for Disease Control and Prevention: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following Advisory Committee meeting.

Name: National Advisory Committee on Children and Terrorism, HHS, CDC.

Time and Date: 9 a.m.–5 p.m., March 6, 2003.

Place: Centers for Disease Control and Prevention, Roybal Campus; 1600 Clifton Road, NE., Building 2, Auditorium A, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: The committee will make recommendations to the Secretary of HHS on matters related to bioterrorism and its impact on children.

Matters to be Discussed: Agenda items will include an introduction of committee members and discussion of the Secretary's priorities, with discussions of recommendations regarding: (a) The preparedness of the health care system to respond to bioterrorism as it relates to children; (b) needed changes to the health care and emergency medical service systems and emergency medical services protocols to meet the special needs of children; and (c) changes, if necessary, to the National Strategic Stockpile under section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 to meet the emergency health security of children.

Agenda items are subject to change as priorities dictate.

For Further Information Contact: Joseph M. Henderson, Executive Secretary, National Advisory Committee on Children and Terrorism, DHHS, CDC, 1600 Clifton Road, NE. M/S D–44, Atlanta, Georgia 30333. Telephone 404/639–7405.

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 30, 2003.

Joseph E. Salter,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–2651 Filed 2–4–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

The National Center for Environmental Health (NCEH); Meeting

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Current Status of the Vessel Sanitation Program (VSP) and Experience-to-Date with Program Operations—Public meeting between CDC and the cruise ship industry, private sanitation consultants, and other interested parties.

Time and Date: 9 a.m.-4 p.m., Tuesday, March 11, 2003.

Place: Auditorium, Port Everglades Administration Building, 1850 Eller Drive, Ft. Lauderdale, Florida 33316.

Status: Open to the public, limited by the space available. The meeting room accommodates approximately 100 people.

Purpose: During the past 15 years, as part of the restructured VSP, CDC has conducted a series of public meetings with members of the cruise ship industry, private sanitation consultants, and other interested parties.

This meeting is a continuation of that series of public meetings to discuss the current status of the VSP and experience-to-date with program operations.

Matters to be Discussed: Agenda items will include a VSP update, 2002 program review, update on the implementation of the VSP Operations Manual 2000, update on disease surveillance and 2002 outbreak investigations, and VSP training seminars.

For a period of 15 days following the meeting, through March 26, 2003, the official record of the meeting will remain open so that additional materials or comments may be submitted to be made part of the record of the meeting.

Advanced registration for the meeting is encouraged. Please provide the following information: Name, title, company name, mailing address, telephone number, facsimile number, and E-mail address to Angela Storms (770) 488–3141, or e-mail: *Astorms@cdc.gov.*

FOR FURTHER INFORMATION CONTACT: David Forney, Chief, VSP, NCEH, CDC, 4770 Buford Highway, NE, M/S F–16, Atlanta, Georgia 30341–3724, telephone (770) 488–7333, e-mail: *Dforney@cdc.gov.*

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 30, 2003.

Joseph E. Salter,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–2650 Filed 2–4–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Savannah River Site Health Effects Subcommittee (SRSHES)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), and the Agency for Toxic Substances and Disease Registry (ATSDR) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Savannah River Site Health Effects Subcommittee (SRSHES).

Times and Dates: 8 a.m.—5 p.m., March 13, 2003.

8 a.m.—12:30 p.m, March 14, 2003.

Place: DoubleTree Guest Suites, 181 Church Street, Charleston, South Carolina 29403, telephone: (843) 577–2644, fax: (843) 577–2697.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with DOE, and replaced by MOUs signed in 1996 and 2000, the Department of Health and Human Services (HHS) was given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, a memo was signed in October 1990 and renewed in November 1992, 1996, and in 2000, between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator ATSDR, regarding community concerns pertaining to CDC's and ATSDR's public health activities and research at this DOE site. The purpose of this meeting is to provide a forum for community interaction and serve as a vehicle for community concerns to be expressed as advice and recommendations to CDC and ATSDR.

Matters to be Discussed: Agenda items include a Review of the History of the Savannah River Site; an Advanced Technology Laboratory (ATL) Research Update; a Presentation on Radiological Monitoring by the Georgia Environmental Protection Division; an update on the National Institute of Occupational Safety and Health's (NIOSH) Occupational Illness Compensation Program and a NIOSH Health-Related Energy Research Branch Program Update.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Phillip Green, Executive Secretary, Savannah River Site Health Effects Subcommittee, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, National Center for Environmental Health, CDC, 1600 Clifton Road, NE. (E–39), Atlanta, GA 30333, telephone: (404) 498–1800, fax: (404) 498–1811.

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 CDC and ATSDR.

Dated: January 30, 2003.

Joseph E. Salter,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–2647 Filed 2–4–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health (ABRWH); Meeting

ACTION: Publication of closed meeting summary of the Advisory Board on Radiation and Worker Health (ABRWH), National Institute for Occupational Safety and Health (NIOSH).

Committee Purpose: This board is charged with (a) providing advice to the Secretary, HHS on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS on the scientific validity and quality of dose reconstruction

efforts performed for this Program; and (c) upon request by the Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Background: The Advisory Board on Radiation and Worker Health met on January 8, 2003, in closed session to discuss the Proposed Independent Government Cost Estimate (IGCE) for a contract. This contract, once awarded, will provide technical support to assist the Board in fulfilling its statutory duty to advise the Secretary of Health and Human Services regarding the dose reconstruction efforts under the Energy Employees Occupational Illness Compensation Program Act. A Determination to Close the meeting was approved and published, as required by the Federal Advisory Committee Act.

Summary of the Meeting: Attendance was as follows:

Board Members:

Paul L. Ziemer, Ph.D., Chair
Larry J. Elliott, Executive Secretary
Henry A. Anderson, M.D., Member
Antonio Andrade, Ph.D., Member
Roy L. DeHart, M.D., M.P.H., Member
Richard L. Espinosa, Member
Michael H. Gibson, Member
Mark A. Griffon, Member
James M. Melius, M.D., Dr.P.H., Member
Robert W. Presley, Member
Genevieve S. Roessler, Ph.D., Member

NIOSH Staff:

Jim Neton
David Naimon
Liz Homoki-Titus
Martha DiMuzio
Cori Homer

Ray S. Green, Court Recorder.

Summary/Minutes

Dr. Ziemer called to order the Advisory Board on Radiation and Worker Health (ABRWH) in closed session on January 8, 2003 at 9:45 a.m. The purpose of the closed meeting was to develop the Independent Government Cost Estimate for a contract to provide technical support to the ABRWH review of completed dose reconstructions.

Dr. Ziemer noted that Ms. Wanda Munn and Mr. Leon Owens were not available to attend and could not be connected via conference call due to telephone line security issues.

General topics discussed:

- Closed session procedures.
- Independent Government Cost Estimate.
- Member of Board to be appointed to the Technical Review Panel for this procurement.

Dr. Paul Ziemer adjourned the closed session of the ABRWH meeting at 11:18 a.m. with no further business being conducted by the ABRWH.

SUPPLEMENTARY INFORMATION: The Advisory Board on Radiation and Worker Health (''the Board'') was established under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) of 2000 to advise the President, through the Secretary of Health and Human Services (HHS), on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Board include providing advice on the development of probability of causation guidelines which have been promulgated by HHS as a final rule, advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule, evaluation of the scientific validity and quality of dose reconstructions conducted by the National Institute for Occupational Safety and Health (NIOSH) for qualified cancer claimants, and advice on the addition of classes of workers to the Special Exposure Cohort.

In December 2000 the President delegated responsibility for funding, staffing, and operating the Board to HHS, which subsequently delegated this authority to the CDC. NIOSH implements this responsibility for CDC. The charter was signed on August 3, 2001 and in November, 2001, the President completed the appointment of an initial roster of 10 Board members. In April, and again in August 2002, the President appointed additional members to ensure more balanced representation on the Board.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Executive Secretary, ABRWH, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone 513/841–4498, fax 513/458–7125.

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 30, 2003.

Joseph E. Slater,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–2652 Filed 2–4–03; 8:45 am]
BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10083]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Centers for Medicare and Medicaid Services.

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.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320. This is necessary to ensure compliance with the Trade Act of 2002. We cannot reasonably comply with the normal clearance procedures because President of an unanticipated event and public harm.

We are requesting emergency clearance of a pilot study designed to elicit information from discharged patients concerning their hospital/acute care experience. Given the current momentum, enthusiasm and support expressed by hospitals and the hospital associations for public reporting of hospital quality information, it is important to provide the tools needed for reliable and valid data collection as soon as possible. CMS would like to take advantage of the opportunity of testing the H–CAHPS instrument in the Hospital State Pilots that has just started. It is important to provide hospitals a standard tool and data collection methodology by July/August 2003 to support this joint initiative. We are interested in receiving comments on the pilot during the course of the pilot, as well as during the comment period mentioned below. However, those received after the close of the comment period will not be included in the materials that OMB reviews in determining whether to approve the collection.

CMS is requesting OMB review and approval of this collection by February 21, 2003, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below by February 20, 2003. During this 180-day period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval.

Type of Information Collection Request: New collection; *Title of Information Collection:* Pilot Test of Hospital CAHPS Survey; *Form No.:* CMS–10083 (OMB #0938–XXXX); *Use:* CMS has requested a hospital survey as a way of providing comparison information for consumers who need to select a hospital and as a way of encouraging accountability of hospitals for the care they provide. With a standardized instrument consumers will be able to make ''apples to apples'' comparisons among hospitals, allow hospitals and hospital chains to self compare, and provide state oversight officials with useful data. A standardized instrument, developed under the CAHPS umbrella, will produce a reliable and valid instrument that any organization can use at no cost to obtain patient data about hospital experiences. This tool will be adopted by the National Hospital Voluntary Initiative; *Frequency:* Once; *Affected Public:* Individuals or households; *Number of Respondents:* 16,500; *Total Annual Responses:* 16,500; *Total Annual Hours:* 5,500.

We have submitted a copy of this notice to OMB for its review of these information collections. A notice will be published in the **Federal Register** when approval is obtained.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' 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.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, in order to be considered in the OMB approval process, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below, by February 20, 2003.

Centers for Medicare and Medicaid Services, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development and Issuances, Attn: Reports Clearance Officer, Room C5–16–03, 7500 Security Boulevard, Baltimore, MD 21244–1850. Fax Number: (410) 786–3064. Attn: Julie Brown; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Fax Number: (202) 395–6974 or (202) 395–5167, Attn: Brenda Aguilar, CMS Desk Officer.

Dated: January 30, 2003.

John P. Burke, III,

CMS Reports Clearance Officer, CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 03–2788 Filed 2–4–03; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–0109]

Medical Devices: Class II Special Controls Guidance Document: Antimicrobial Susceptibility Test Systems; Guidance for Industry and FDA; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled ''Class II Special Controls Guidance Document: Antimicrobial Susceptibility Test (AST) Systems; Guidance for Industry and FDA.'' This guidance document was developed as a special control guidance to support the reclassification of the fully automated short-term incubation cycle antimicrobial susceptibility device from class III to class II. Elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule reclassifying the fully automated short-term incubation cycle antimicrobial susceptibility device from class III to class II.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the guidance entitled ''Class II Special Controls Guidance Document: Antimicrobial Susceptibility Test (AST) Systems; Guidance for Industry and FDA'' to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Submit written comments concerning this guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. Submit electronic comments to *http://www.fda.gov//dockets/ecomments.* See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Freddie M. Poole, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2096.

SUPPLEMENTARY INFORMATION:

I. Background

This guidance document was developed as a special control guidance to support the reclassification of the fully automated short-term incubation cycle antimicrobial susceptibility device from class III to class II. Elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule to reclassify

this type of device from class III to class II. This guidance serves to update the information provided in the draft guidance entitled ''Guidance on Review Criteria for Assessment of Antimicrobial Susceptibility Devices'' (65 FR 12271, March 8, 2000). FDA considered the comments it received and made changes to the guidance as a result, including the revised document title to identify this guidance as a special control. FDA believes that special controls, when combined with the general controls, will be sufficient to provide reasonable assurance of the safety and effectiveness of the fully automated short-term incubation cycle antimicrobial susceptibility device. After the device is reclassified, a manufacturer who intends to market a device of this generic type must: (1) Comply with the general controls of the Federal Food, Drug, and Cosmetic Act, including the 510(k) requirements described in 21 CFR 807.81, (2) address the specific risks to health associated with the antimicrobial susceptibility test system, and (3) receive a substantial equivalence determination from FDA prior to marketing the device.

This guidance document identifies the classification, product code, and classification definition for fully automated short-term incubation cycle antimicrobial susceptibility devices. In addition, it identifies the risks to health and serves as a special control that, when followed and combined with the general controls of the act, will be sufficient to address the risks associated with this generic device type and lead to a timely review and clearance of a premarket notification under section 510(k) of the act (21 U.S.C. 360(k)).

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This guidance represents the agency's current thinking on AST systems. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statutes and regulations. Following the effective date of the final classification rule (published elsewhere in this issue of the **Federal Register**), any firm submitting a 510(k) premarket notification for a fully automated short-term incubation cycle antimicrobial susceptibility device will need to address the issues covered in the special control guidance. However, the firm need only show that its device meets the recommendations of the guidance or in some other way provides equivalent assurances of safety and effectiveness.

III. Electronic Access

In order to receive ''Class II Special Controls Guidance Document: Antimicrobial Susceptibility Test (AST) Systems; Guidance for Industry and FDA,'' you may either send a fax request to 301–443–8818 to receive a hard copy of the document, or send an e-mail to *GWA@CDRH.FDA.GOV* to request a hard copy or electronic copy. Please use the document number (631) to identify the guidance you are requesting.

Persons interested in obtaining a copy of the guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes the civil money penalty guidance documents package, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at *http://www.fda.gov/cdrh*. Guidance documents are also available on the Dockets Management Branch Internet site at *http://www.fda.gov/ohrms/dockets*.

IV. Comments

Interested persons may submit to Dockets Management Branch (see **ADDRESSESS**) written or comments regarding this guidance. Two copies of any 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. Electronic comments may be submitted at *http://www.fda.gov/opacom/backgrounders/voice.html*. The guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 9, 2003.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 03–2657 Filed 2–4–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Advisory Committee on Rural Health and Human Services; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the following committee will convene its forty-third meeting. The meeting will be open to the public.

Name: National Advisory Committee on Rural Health and Human Services.

Date and Time: March 2, 2003, 2 p.m.–5 p.m.; March 3, 2003, 8:30 a.m.–5 p.m.; March 4, 2003, 8:30 a.m.–3 p.m.

Place: Grand Hyatt Washington, 1000 H Street, NW., Washington, DC 20001–4520.

Purpose: The National Advisory Committee on Rural Health and Human Services provides advice and recommendations to the Secretary with respect to the delivery, research, development and administration of health and human services in rural areas.

Agenda: Sunday afternoon, March 2, at 2 p.m., the Chairperson, the Honorable David Beasley, will open the meeting and welcome the Committee. The first session will open with a discussion of the Meeting Agenda and Goals by the Office of Rural Health Policy (ORHP) Acting Deputy Director, Mr. Tom Morris. This will be followed by a discussion of the Committee's role in the Department, administrative business, and the Committee's 2003 Agenda.

Monday morning, March 3, at 8:30 a.m. the session will open with a presentation by the Deputy Administrator, Health Resources and Services Administration, and an update by ORHP. After the break, the Committee will discuss and approve the 2002 projects, the report on rural health care quality and the white paper on the rural workforce. After lunch, there will be presentations on three topics relating to the Committee's 2003 workplan.

The final session will be convened Tuesday morning, March 4, at 8:30 a.m. The Committee will discuss the strategic plan, future agenda, and the selection of a Steering Committee. The strategic planning will continue after lunch. The meeting will conclude with a discussion of the June and September meetings. The meeting will be adjourned at 3 p.m.

FOR FURTHER INFORMATION CONTACT: Anyone requiring information regarding the Committee should contact Tom Morris, MPA, Executive Secretary, National Advisory Committee on Rural Health and Human Services, Health Resources and Services Administration, Parklawn Building, Room 9A–55, 5600 Fishers Lane, Rockville, MD 20857, telephone (301) 443–0835, Fax (301) 443–2803.

Persons interested in attending any portion of the meeting should contact Michele Pray-Gibson, Office of Rural Health Policy (ORHP), telephone (301) 443–0835. The Committee meeting agenda will be posted on ORHP's Web site *http://www.ruralhealth.hrsa.gov*.

Dated: January 29, 2003.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 03–2659 Filed 2–4–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (''the Program''), as required by Section 2112(b)(2) of the Public Health Service (PHS) Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact the Clerk, United States Court of Federal Claims, 717 Madison Place, NW., Washington, DC 20005; (202) 219–9657. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 16C–17, Rockville, MD 20857; (301) 443–6593.

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.*, provides that those seeking compensation are to file a petition with the U.S. Court of Federal Claims and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated his responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at Section 2114 of the PHS Act or as set forth at 42 CFR 100.3, as applicable. This Table lists for each covered childhood vaccine the conditions which will lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested after the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that the Secretary publish in the **Federal Register** a notice of each petition filed. Set forth below is a list of petitions received by HRSA on July 1, 2002, through September 30, 2002.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

(a) ''Sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Table but which was caused by'' one of the vaccines referred to in the Table, or

(b) ''Sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

This notice will also serve as the special master's invitation to all interested persons to submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Court of Federal Claims at the address listed above (under the heading ''For Further Information Contact''), with a copy to HRSA addressed to Director, Division of Vaccine Injury Compensation Program, Office of Special Programs, 5600 Fishers Lane, Room 16C–17, Rockville, MD 20857. The Court's caption (Petitioner's Name v. Secretary of Health and Human Services) and the docket number assigned to the petition should be used as the caption for the written submission.

Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

List of Petitions

1. Carla Lowry on behalf of Tyler Lowry; Boston, Massachusetts; Court of Federal Claims Number 02–0753V
2. Scott Bagby on behalf of Trenton Bagby; Adrian, Missouri; Court of Federal Claims Number 02–0754V
3. Allison and Kenneth Byrd on behalf of Noah Byrd; California, Maryland; Court of Federal Claims Number 02–0755V
4. Barbara and William Whitman on behalf of Christian Whitman; Taylor, Pennsylvania; Court of Federal Claims Number 02–0763V
5. Kimberly Brox on behalf of Mary Kate Brox; Boston, Massachusetts; Court of Federal Claims Number 02–0765V
6. Kathy Maynard on behalf of Mikayla Maynard; Lecanto, Florida; Court of Federal Claims Number 02–0766V
7. Sandra Friedman; Shorewood, Wisconsin; Court of Federal Claims Number 02–0770V
8. Rhonda and Robert Evans on behalf of Kimberly Ann Evans; Fayetteville, North Carolina; Court of Federal Claims Number 02–0771V
9. Lisa and John Hedin on behalf of Jason Hedin; Austell, Georgia; Court of Federal Claims Number 02–0774V
10. AnnMarie and H. Dean Moore on behalf of Kathryn Moore; Philadelphia, Pennsylvania; Court of Federal Claims Number 02–0777V
11. Susan Iannuzzi on behalf of Peter Iannuzzi; Boston, Massachusetts; Court of Federal Claims Number 02–0780V
12. Alyson Feinberg on behalf of Jacob Feinberg; Boston, Massachusetts; Court of Federal Claims Number 02–0781V
13. Charles Wall on behalf of Christopher Wall; Boston,

Massachusetts; Court of Federal Claims Number 02–0782V
14. Charles Wall on behalf of Brandon Wall; Boston, Massachusetts; Court of Federal Claims Number 02–0783V
15. Joanella Cannell on behalf of Margaret Cannell; Vienna, Virginia; Court of Federal Claims Number 02–0785V
16. Sha and Jason Hurst on behalf of Sarah Lynn Hurst; Montgomery, Alabama; Court of Federal Claims Number 02–0786V
17. Elizabeth and John Setnes on behalf of Austin J. Setnes; Shakopee, Minnesota; Court of Federal Claims Number 02–0791V
18. Peyton Kotz on behalf of Jennifer Kotz; LeGrande, Oregon; Court of Federal Claims Number 02–0798V
19. Jane Lutz; Pittsburgh, Pennsylvania; Court of Federal Claims Number 02–0799V
20. Michelle Iddings on behalf of Carson Iddings; Boston, Massachusetts; Court of Federal Claims Number 02–0801V
21. Jennifer Hillman on behalf of Emmanuel Hillman; Boston, Massachusetts; Court of Federal Claims Number 02–0802V
22. Christina Hamilton on behalf of Michael Hamilton; Boston, Massachusetts; Court of Federal Claims Number 02–0803V
23. Melanie Gorneault on behalf of Ryan Gorneault; Boston, Massachusetts; Court of Federal Claims Number 02–0804V
24. Tiffany Fleming on behalf of Connor Fleming; Boston, Massachusetts; Court of Federal Claims Number 02–0805V
25. Nancy Flaherty on behalf of Kaitlin Flaherty; Boston, Massachusetts; Court of Federal Claims Number 02–0806V
26. Heather Flaherty on behalf of Aidan Flaherty; Boston, Massachusetts; Court of Federal Claims Number 02–0807V
27. Alice Fitzmorris on behalf of Andrew Fitzmorris; Boston, Massachusetts; Court of Federal Claims Number 02–0808V
28. Katherine Fontanez on behalf of Matteo Figueroa; Boston, Massachusetts; Court of Federal Claims Number 02–0809V
29. Denise English on behalf of Jack English; Boston, Massachusetts; Court of Federal Claims Number 02–0810V
30. Carmen Beniquez on behalf of Kyle Downs; Boston, Massachusetts; Court of Federal Claims Number 02–0811V
31. Heather Dillon on behalf of David Dillon; Boston, Massachusetts; Court of Federal Claims Number 02–0812V
32. Stacy Daniel on behalf of Christopher Daniel; Boston, Massachusetts; Court of Federal Claims Number 02–0813V
33. Kimberlene Cuttler on behalf of Sarah Cuttler; Boston, Massachusetts; Court of Federal Claims Number 02–0814V
34. Margaret Bowman on behalf of Joshua Bowman; Boston, Massachusetts; Court of Federal Claims Number 02–0815V
35. Wendy Barry on behalf of Max Barry; Boston, Massachusetts; Court of Federal Claims Number 02–0816V
36. Amy Thames on behalf of Moses Thames; Boston, Massachusetts; Court of Federal Claims Number 02–0817V
37. Cassie Stoner on behalf of Carson Stoner; Boston, Massachusetts; Court of Federal Claims Number 02–0818V
38. Kim Stewart on behalf of Heath Stewart; Boston, Massachusetts; Court of Federal Claims Number 02–0819V
39. Kerri Speights on behalf of Brandon Speights; Boston, Massachusetts; Court of Federal Claims Number 02–0820V
40. Lynn Sparling on behalf of Deanna Sparling; Boston, Massachusetts; Court of Federal Claims Number 02–0821V
41. Jennifer Shearer on behalf of Dean Shearer; Boston, Massachusetts; Court of Federal Claims Number 02–0822V
42. Richard Schultz on behalf of Andreas Schultz; Boston, Massachusetts; Court of Federal Claims Number 02–0823V
43. Christina Schack on behalf of Dylan Schack; Boston, Massachusetts; Court of Federal Claims Number 02–0824V
44. Laura Santos on behalf of Phillip Santos; Boston, Massachusetts; Court of Federal Claims Number 02–0825V
45. Elsie Russell on behalf of Clay Russell; Boston, Massachusetts; Court of Federal Claims Number 02–0826V
46. Sherry Putz on behalf of Brent Putz; Boston, Massachusetts; Court of Federal Claims Number 02–0827V
47. Jess Pawlak on behalf of Trevor Pawlak; Boston, Massachusetts; Court of Federal Claims Number 02–0828V
48. Ginger McGrady on behalf of Ethan McGrady; Boston, Massachusetts; Court of Federal Claims Number 02–0829V
49. Susan McGlone on behalf of Ty McGlone; Boston, Massachusetts; Court of Federal Claims Number 02–0830V
50. Julie Maryjanowski on behalf of William Maryjanowski; Boston, Massachusetts; Court of Federal Claims Number 02–0831V
51. Wendie Mancuso on behalf of Daniel Mancuso; Boston, Massachusetts; Court of Federal Claims Number 02–0832V
52. Jennifer Larson on behalf of Caden Larson; Boston, Massachusetts; Court of Federal Claims Number 02–0833V
53. Julie Johnston on behalf of Hannah Johnston; Boston, Massachusetts; Court of Federal Claims Number 02–0834V
54. Bryan Jaeger on behalf of Brandon Jaeger; Boston, Massachusetts; Court of Federal Claims Number 02–0835V
55. Kathleen Billete-Saul on behalf of Patrick Billete; Boston, Massachusetts; Court of Federal Claims Number 02–0836V
56. Bryan Jaeger on behalf of Cameron Jaeger; Boston, Massachusetts; Court of Federal Claims Number 02–0837V
57. Doug Hamilton and Amy Currie on behalf of Edgar Hamilton; Melbourne, Florida; Court of Federal Claims Number 02–0838V
58. Lucine and George Hawn on behalf of Samantha Hawn; Alexandria, Virginia; Court of Federal Claims Number 02–0841V
59. Nancy and John Decharinte on behalf of Alex Decharinte; Houston, Texas; Court of Federal Claims Number 02–0842V
60. Nancy and John Decharinte on behalf of Kevin Decharinte; Houston, Texas; Court of Federal Claims Number 02–0843V
61. Maryann and Juan Garcia on behalf of Jared Adam Garcia; Houston, Texas; Court of Federal Claims Number 02–0844V
62. Patti and Gary Journey on behalf of Drew Journey; Houston, Texas; Court of Federal Claims Number 02–0845V
63. Lela Elizabeth Lansaw on behalf of Eric Gage Lansaw; Houston, Texas; Court of Federal Claims Number 02–0846V
64. Maria and Antonio Longoria on behalf of Brian Longoria; Houston, Texas; Court of Federal Claims Number 02–0847V
65. Sandi and Gregory Peerman on behalf of Bret Peerman; Houston, Texas; Court of Federal Claims Number 02–0848V
66. Mary and Curtis Richards on behalf of Leah Richards; Houston, Texas; Court of Federal Claims Number 02–0849V
67. Diane and Shawn Sullivan on behalf of Dylan Sullivan; Houston, Texas; Court of Federal Claims Number 02–0850V
68. Amy McCabe and Charles Tucker, Jr. on behalf of Charles Tucker, III; Houston, Texas; Court of Federal Claims Number 02–0851V
69. Joann and Johnny Vega on behalf of Amber Vega; Houston, Texas; Court of Federal Claims Number 02–0852V
70. Laurie Ann Caballerio on behalf of Michael A. Zendejas-Lanpher;

Houston, Texas; Court of Federal Claims Number 02–0853V
71. Andrea Garbutt and Clifford Ellison on behalf of Kendal Ellison; Houston, Texas; Court of Federal Claims Number 02–0854V
72. Delana Dee and Cary Paul Wilson on behalf of Robert Wilson; Houston, Texas; Court of Federal Claims Number 02–0855V
73. Janet Abruzzo on behalf of Anna Rose Abruzzo; Boston, Massachusetts; Court of Federal Claims Number 02–0857V
74. Kelly Todd on behalf of Kyle Todd; Boston, Massachusetts; Court of Federal Claims Number 02–0858V
75. Angela Jones on behalf of Langston Jones; Boston, Massachusetts; Court of Federal Claims Number 02–0859V
76. Nancy Galgano on behalf of Carmen Galgano; Boston, Massachusetts; Court of Federal Claims Number 02–0860V
77. Tricia Hasbrook on behalf of Arnold John Hasbrook; Boston, Massachusetts; Court of Federal Claims Number 02–0861V
78. Marc Gamberdella on behalf of Genaro Gamberdella; Boston, Massachusetts; Court of Federal Claims Number 02–0862V
79. Lawrence Smith on behalf of Logan Smith; Boston, Massachusetts; Court of Federal Claims Number 02–0863V
80. Malkah Pessel-Berger and Aryeh Berger on behalf of Chana Rochel Berger; Brooklyn, New York; Court of Federal Claims Number 02–0865V
81. Karen Meenan on behalf of Chelsea Meenan; Acton, Massachusetts; Court of Federal Claims Number 02–0866V
82. Shari and Jeffrey Willingham on behalf of Zachary Willingham; Hiram, Georgia; Court of Federal Claims Number 02–0867V
83. Robin and Michael Wilson on behalf of Destiny Wilson; Savannah, Georgia; Court of Federal Claims Number 02–0868V
84. Joann and John Bowes on behalf of Andrew Bowes; Raleigh, North Carolina; Court of Federal Claims Number 02–0869V
85. Tracy and Wayne Hill on behalf of Wayne Hill, Jr.; Goldsboro, North Carolina; Court of Federal Claims Number 02–0870V
86. Ying and Va Yang on behalf of Ryan Yang; Hickory, North Carolina; Court of Federal Claims Number 02–0871V
87. Willie Bell and Gwendolyn Williams on behalf of Travis Bell; Rocky Mount, North Carolina; Court of Federal Claims Number 02–0872V
88. Amy and Stacy Carson on behalf of Kit Carson; Asheville, North Carolina; Court of Federal Claims Number 02–0873V
89. Broderick Leonard and Tamara Tolbert on behalf of Broderick Tyren Leonard; Montgomery, Alabama; Court of Federal Claims Number 02–0874V
90. Melissa and James Gray on behalf of Tanner Gray; Fayetteville, North Carolina; Court of Federal Claims Number 02–0875V
91. Sharmaine and David Brown on behalf of Marcus Brown; Watertown, New York; Court of Federal Claims Number 02–0876V
92. Virginia Hall and Thurman Richard on behalf of Joshua Dahles Hall; Salisbury, North Carolina; Court of Federal Claims Number 02–0877V
93. Amy and Timothy Blankenbeckler on behalf of Tanner Lee Blankenbeckler; Salisbury, North Carolina; Court of Federal Claims Number 02–0878V
94. Tara Bullard on behalf of Nicole Taylor Smith; Senatobia, Mississippi; Court of Federal Claims Number 02–0881V
95. Annie Wiggins on behalf of Aristotle Tellis; Alexandria, Virginia; Court of Federal Claims Number 02–0882V
96. Namuliza and Bofotola Akemba on behalf of Esha Akemba; Alexandria, Virginia; Court of Federal Claims Number 02–0883V
97. Pamela and Daniel Korpal on behalf of William Palmer Korpal; Alexandria, Virginia; Court of Federal Claims Number 02–0884V
98. Ernest Pugh and Linda Davis on behalf of Ernest Pugh, IV; Gretna, Louisiana; Court of Federal Claims Number 02–0885V
99. Sheri and Cary Steffens on behalf of Donovan Steffens; Philadelphia, Pennsylvania; Court of Federal Claims Number 02–0886V
100. Donna Zittrouer on behalf of Andrew Zittrouer; Vienna, Virginia; Court of Federal Claims Number 02–0887V
101. Mathew Snyder on behalf of John Snyder; Vienna, Virginia; Court of Federal Claims Number 02–0888V
102. Douglas Cooper on behalf of Justin Cooper; Vienna, Virginia; Court of Federal Claims Number 02–0889V
103. Robert Blackwell on behalf of Timothy Blackwell; Vienna, Virginia; Court of Federal Claims Number 02–0890V
104. Maria Corrales on behalf of Dean James Kivotidis; Vienna, Virginia; Court of Federal Claims Number 02–0891V
105. Rose Lunsford on behalf of Matthew Lunsford; Vienna, Virginia; Court of Federal Claims Number 02–0892V
106. Arlisha Ross on behalf of Sarabian Ross; Jackson, Mississippi; Court of Federal Claims Number 02–0896V
107. Judy and Gary Johnson on behalf of Stefan Ray Johnson; Hayward, California; Court of Federal Claims Number 02–0897V
108. Connie and Peter Koehn on behalf of Joseph Koehn; Minneapolis, Minnesota; Court of Federal Claims Number 02–0899V
109. Laneen and Cornelius Graham on behalf of Cornelius Stefon Graham; Rockingham, North Carolina; Court of Federal Claims Number 02–0900V
110. Jennifer Reno on behalf of Matthew Reno; Boston, Massachusetts; Court of Federal Claims Number 02–0901V
111. Deborah Martin on behalf of Ryan Soper; Boston, Massachusetts; Court of Federal Claims Number 02–0902V
112. Isaak Tiske on behalf of Clarence Tiske; Boston, Massachusetts; Court of Federal Claims Number 02–0903V
113. Rebecca Grimes on behalf of Joshua Grimes; Boston, Massachusetts; Court of Federal Claims Number 02–0904V
114. Rebecca Grimes on behalf of Nathan Grimes; Boston, Massachusetts; Court of Federal Claims Number 02–0905V
115. Fern Henderson on behalf of William Henderson; Boston, Massachusetts; Court of Federal Claims Number 02–0906V
116. Edward Sollinger on behalf of Julia Sollinger; Boston, Massachusetts; Court of Federal Claims Number 02–0907V
117. Jennifer McKean on behalf of Ryan McKean; Boston, Massachusetts; Court of Federal Claims Number 02–0908V
118. Michelle Kwiatkowski on behalf of Jonathan Kwiatkowski; Boston, Massachusetts; Court of Federal Claims Number 02–0909V
119. Tawnya Allen on behalf of Jordan Allen; Temecula, California; Court of Federal Claims Number 02–0913V
120. Cindy and Jeffrey Mays on behalf of Kyle Mays; Temecula, California; Court of Federal Claims Number 02–0914V
121. Anna and Brent Clawson on behalf of Cameron James Clawson; Temecula, California; Court of Federal Claims Number 02–0915V
122. Lesa and Kenneth Booth on behalf of Jeffrey T. Booth; Houston, Texas; Court of Federal Claims Number 02–0916V
123. Gary Bell and Christina Messick on behalf of Chase T. Bell; Houston, Texas; Court of Federal Claims Number 02–0917V
124. Arthur Gonyea and Norma Jean Fowler on behalf of Jeffrey Gonyea; Houston, Texas; Court of Federal Claims Number 02–0918V
125. Lilia and David Rosell on behalf of Katie B. Rosell; Houston, Texas; Court of Federal Claims Number 02–0919V

126. Linda and Kerry Weinmaster on behalf of Adam Weinmaster; Houston, Texas; Court of Federal Claims Number 02–0920V
127. Carolyn and Robert Clarke on behalf of Christopher Ryan Clarke; Logan, West Virginia; Court of Federal Claims Number 02–0921V
128. Tina and Brian Flanagan on behalf of Patrick James Joseph Flanagan; Flushing, New York; Court of Federal Claims Number 02–0922V
129. Christine and Norman Eisengart on behalf of Nicholas Connor Eisengart; Ashtabula, Ohio; Court of Federal Claims Number 02–0923V
130. Charles Mensah; Bronx, New York; Court of Federal Claims Number 02–0924V
131. Melissa and Frank Kudasik on behalf of Hunter Frank Kudasik; Aberdeen, Washington; Court of Federal Claims Number 02–0925V
132. John Aaron Nagel on behalf of Clay Harris Nagel; Boston, Massachusetts; Court of Federal Claims Number 02–0927V
133. Mary Browning on behalf of Mauve Brynildson; Boston, Massachusetts; Court of Federal Claims Number 02–0928V
134. Mary Browning on behalf of Katherine Brynildson; Boston, Massachusetts; Court of Federal Claims Number 02–0929V
135. Lory and Calvin Shaw on behalf of Jason Shaw; Smithfield, North Carolina; Court of Federal Claims Number 02–0930V
136. Victor Heidelberg on behalf of Destiny Heidelberg; Laurel, Mississippi; Court of Federal Claims Number 02–0931V
137. Barbara Winnicki on behalf of Matthew Winnicki; Boston, Massachusetts; Court of Federal Claims Number 02–0935V
138. Murray Richelson on behalf of Elisheva Richelson; Boston, Massachusetts; Court of Federal Claims Number 02–0936V
139. Mohammad Saadatzadeh and Sholeh Bijang on behalf of Tirajeh Saadatzadeh; Indianapolis, Indiana; Court of Federal Claims Number 02–0937V
140. Judith and Michael Ruggiero on behalf of Nicholas A. Ruggiero; Indianapolis, Indiana; Court of Federal Claims Number 02–0938V
141. Theresa Abel on behalf of Brittany Dollins; Peoria, Illinois; Court of Federal Claims Number 02–0947V
142. Kita Hughes on behalf of Marlin Noel Hughes; Detroit, Michigan; Court of Federal Claims Number 02–0949V
143. Sharon and Scott Blair on behalf of Aubreianna Blair; Vienna, Virginia; Court of Federal Claims Number 02–0952V
144. Marie and David Bennett on behalf of Austin Rowe Bennett; Seattle, Washington; Court of Federal Claims Number 02–0954V
145. Elizabeth and Thomas Duggan on behalf of Justine Duggan; Rockville Center, New York; Court of Federal Claims Number 02–0955V
146. Lori and Edward Bailey on behalf of Kaylin Ruth Bailey; Logan, West Virginia; Court of Federal Claims Number 02–0956V
147. Cynthia McCullough on behalf of Kearney Rose McCullough; Worcester, Massachusetts; Court of Federal Claims Number 02–0957V
148. Dave Mackelprang and Mildred Floyd on behalf of Devin Michael Mackelprang; Denver, Colorado; Court of Federal Claims Number 02–0958V
149. Laura and Aaron Misenhelter on behalf of Aaron Misenhelter; Charleston, South Carolina; Court of Federal Claims Number 02–0960V
150. Samara Brown on behalf of Dorian Herriott; Sumter, South Carolina; Court of Federal Claims Number 02–0961V
151. Dawn and Robert Thomas on behalf of Robert C. Thomas; Lexington, South Carolina; Court of Federal Claims Number 02–0962V
152. Diane Dininno and Charles Wilson on behalf of Trystan Wilson Graham; Fayetteville, North Carolina; Court of Federal Claims Number 02–0963V
153. Carolyn and Jose Nogal on behalf of Mirella Nogal; Newton Grove, North Carolina; Court of Federal Claims Number 02–0964V
154. Leslie and Robert Weed on behalf of Lanier Rose Weed; Melbourne, Florida; Court of Federal Claims Number 02–0965V
155. Katherine and David Souers on behalf of Benjamin Thomas Souers; Melbourne, Florida; Court of Federal Claims Number 02–0966V
156. Sharon Lang; Chicago, Illinois; Court of Federal Claims Number 02–0968V
157. Tammy Jo Dettman on behalf of Brandon Edward Barton; Houston, Texas; Court of Federal Claims Number 02–0973V
158. Aja Richardson on behalf of Kylie Mae Cotton-Richardson; Houston, Texas; Court of Federal Claims Number 02–0974V
159. Maggie and Leif Taubenberger on behalf of Max Friedrich Taubenberger; Houston, Texas; Court of Federal Claims Number 02–0975V
160. Leticia Garcia on behalf of Jacob Matthew Garcia; San Jose, California; Court of Federal Claims Number 02–0976V
161. Ora Robinson on behalf of James Marcus Robinson; Denver, Colorado; Court of Federal Claims Number 02–0977V
162. Michelle and Mark Dunham on behalf of Nicholas Ryan Dunham; Melbourne, Florida; Court of Federal Claims Number 02–0980V
163. Alicia and Blane Meeks on behalf of Madison L. Meeks; Melbourne, Florida; Court of Federal Claims Number 02–0981V
164. Jennifer Mullen on behalf of Sean Mullen; Boston, Massachusetts; Court of Federal Claims Number 02–0983V
165. Michelle Avery on behalf of Justin Avery; Boston, Massachusetts; Court of Federal Claims Number 02–0984V
166. Jessica Ozment on behalf of Victoria Ozment; Boston, Massachusetts; Court of Federal Claims Number 02–0985V
167. Robin Cline on behalf of Ryan Rothrock; Boston, Massachusetts; Court of Federal Claims Number 02–0986V
168. Victoria Miller on behalf of Zachery Miller; Boston, Massachusetts; Court of Federal Claims Number 02–0987V
169. Kimberly Melvin on behalf of Najee Melvin; Boston, Massachusetts; Court of Federal Claims Number 02–0988V
170. Charlene Russell on behalf of Joseph Russell; Boston, Massachusetts; Court of Federal Claims Number 02–0989V
171. Myra McKeever on behalf of Cyrish McKeever; Boston, Massachusetts; Court of Federal Claims Number 02–0990V
172. Dawn Roark on behalf of Noah Roark; Boston, Massachusetts; Court of Federal Claims Number 02–0991V
173. Monika Steinborn on behalf of Trevor Rose; Boston, Massachusetts; Court of Federal Claims Number 02–0992V
174. Sharon and Tim Scott on behalf of Colby Brennan Scott; Houston, Texas; Court of Federal Claims Number 02–0993V
175. Felica and David Ward on behalf of Morgan Elizabeth Ward; Lewisville, Texas; Court of Federal Claims Number 02–0994V
176. Cynthia and Kenneth Brown on behalf of Zachary Taylor Brown; Lewisville, Texas; Court of Federal Claims Number 02–0995V
177. Melissa and Norman Kuehn on behalf of Brandon Hilton Kuehn; Houston, Texas; Court of Federal Claims Number 02–0996V
178. Eileen and Michael O'Connell on behalf of Michael Joseph O'Connell; Webster, Texas; Court of Federal Claims Number 02–0997V
179. Jessica Owens on behalf of Jarrett Ross Schafer; Corsicana, Texas; Court of Federal Claims Number 02–0998V

180. Kendal and Jay Blackmon on behalf of Todd Christopher Blackmon; Fort Worth, Texas; Court of Federal Claims Number 02–0999V
181. Jacqueline and Mark Redding on behalf of Case Redding; New Orleans, Louisiana; Court of Federal Claims Number 02–1000V
182. Eugenia Collins on behalf of JaCora Nesbitt; Charleston, South Carolina; Court of Federal Claims Number 02–1002V
183. Jacqueline Degree on behalf of Keanna Degree; Charleston, South Carolina; Court of Federal Claims Number 02–1003V
184. Andrea Jordan on behalf of Alvarez Boyd; Charleston, South Carolina; Court of Federal Claims Number 02–1004V
185. Cynthia Sells on behalf of Marlesha Sells; Charleston, South Carolina; Court of Federal Claims Number 02–1005V
186. Keri Stevenson on behalf of Baylee Stevenson; Charleston, South Carolina; Court of Federal Claims Number 02–1006V
187. Tammy and Paul Lessick on behalf of Dean Lessick; Charleston, South Carolina; Court of Federal Claims Number 02–1007V
188. Christina Masters on behalf of Allison Butcher; Charleston, South Carolina; Court of Federal Claims Number 02–1008V
189. Lajaune and George Graves on behalf of Nyla Graves; Charleston, South Carolina; Court of Federal Claims Number 02–1009V
190. Radiah and Christopher Stewart on behalf of Elijah Stewart; Charleston, South Carolina; Court of Federal Claims Number 02–1010V
191. Beth Tobin on behalf of Lauren Tobin; Vienna, Virginia; Court of Federal Claims Number 02–1012V
192. Janeen and Joseph Herskovitz on behalf of Benjamin Herskovitz; Melbourne, Florida; Court of Federal Claims Number 02–1013V
193. Janine Pandolfino on behalf of Gianna Pandolfino; Framingham, Massachusetts; Court of Federal Claims Number 02–1014V
194. Julie and Craig Yanz on behalf of Zachary Yanz; Minneapolis, Minnesota; Court of Federal Claims Number 02–1015V
195. Lynette and Max Lambert on behalf of Abbigail Lambert, Deceased; Denton, Texas; Court of Federal Claims Number 02–1016V
196. Kellie and Anthony Korder on behalf of Courtney River Korder; Minneapolis, Minnesota; Court of Federal Claims Number 02–1017V
197. Stephanie and Daniel Bakke on behalf of Benjamin Bakke; Minneapolis, Minnesota; Court of Federal Claims Number 02–1018V
198. Sue and Ron Carey on behalf of Matthew Carey; Minneapolis, Minnesota; Court of Federal Claims Number 02–1019V
199. Gail and Mark Foreman on behalf of Christopher Foreman; Minneapolis, Minnesota; Court of Federal Claims Number 02–1020V
200. Judy and Luke Yurkovich on behalf of Brenden Yurkovich; Minneapolis, Minnesota; Court of Federal Claims Number 02–1021V
201. Kimberly Lambert; Covington, Louisiana; Court of Federal Claims Number 02–1022V
202. Kathleen Rose Murphy on behalf of Adam Joseph Rusch; Houston, Texas; Court of Federal Claims Number 02–1023V
203. Amanda Jo Wroblewski on behalf of Shane O'Connell, Jr.; Houston, Texas; Court of Federal Claims Number 02–1024V
204. Jamie and Alan Harshfield on behalf of Adison Harshfield; Houston, Texas; Court of Federal Claims Number 02–1025V
205. Nikki Leigh Horstmeyer on behalf of Tyler B. Germann; Houston, Texas; Court of Federal Claims Number 02–1026V
206. Pamela and Craig Corley on behalf of James Corley; Houston, Texas; Court of Federal Claims Number 02–1027V
207. Dionne Carter on behalf of Logan Carter; Houston, Texas; Court of Federal Claims Number 02–1028V
208. Linda and Jeffrey Brown on behalf of Terrell C. Brown; Houston, Texas; Court of Federal Claims Number 02–1029V
209. Mary Fields on behalf of Triniti Fields; Charleston, South Carolina; Court of Federal Claims Number 02–1034V
210. Gina Busolin on behalf of Christopher Busolin; Charleston, South Carolina; Court of Federal Claims Number 02–1035V
211. James McKenzie on behalf of Jahiya McKenzie; Charleston, South Carolina; Court of Federal Claims Number 02–1036V
212. Patricia and Bryan Easter on behalf of Patrick Easter; Charleston, South Carolina; Court of Federal Claims Number 02–1037V
213. Cheryl Kennedy on behalf of Darriaus Kennedy; Charleston, South Carolina; Court of Federal Claims Number 02–1038V
214. Amber and Bryan Trimpe on behalf of Gabriel Trimpe; Charleston, South Carolina; Court of Federal Claims Number 02–1039V
215. Leslie and Joe Davis on behalf of Joel Davis; Charleston, South Carolina; Court of Federal Claims Number 02–1040V
216. Janina and Leszek Olsen on behalf of Jan Olsen; Temecula, Florida; Court of Federal Claims Number 02–1043V
217. Delya Johnson on behalf of Quran Johnson; Salisbury, North Carolina; Court of Federal Claims Number 02–1044V
218. Beverly Watson on behalf of Keith Bernard Harris; Chicago, Illinois; Court of Federal Claims Number 02–1045V
219. Malka and Brian Asch on behalf of Ariel Michael Asch; Cedarhurst, New York; Court of Federal Claims Number 02–1046V
220. Leah Dow Standley on behalf of Addison Morris Standley; Winter Park, Florida; Court of Federal Claims Number 02–1047V
221. Angelia McCoy Allison on behalf of Robbiana La'Shae Harris; Demopolis, Alabama; Court of Federal Claims Number 02–1048V
222. Charles Jones and Tammy Roberson on behalf of Travis William Jones; Anniston, Alabama; Court of Federal Claims Number 02–1049V
223. Cori Katherine Harris on behalf of Raymond Ryan Harris; Quincy, Massachusetts; Court of Federal Claims Number 02–1050V
224. Dana Butler on behalf of Reagan Alicia Butler; Brooklyn, New York; Court of Federal Claims Number 02–1051V
225. Esther Hall; Thornton, Colorado; Court of Federal Claims Number 02–1052V
226. Ernesto Reyes on behalf of Isamar Reyes; Temecula, California; Court of Federal Claims Number 02–1053V
227. Sheri and Jeffrey Denbaugh on behalf of Julia Denbaugh; Temecula, California; Court of Federal Claims Number 02–1054V
228. Abigail and Christopher Smith on behalf of Kirsten Nicole Smith; Temecula, California; Court of Federal Claims Number 02–1055V
229. Elizabeth Collet on behalf of William Collet; Boston, Massachusetts; Court of Federal Claims Number 02–1056V
230. Golda Zafrani on behalf of Isaac Zafrani; Boston, Massachusetts; Court of Federal Claims Number 02–1057V
231. Makayla Zarker on behalf of Wendy Lynn; Boston, Massachusetts; Court of Federal Claims Number 02–1058V
232. Theresa and Steven Meadows on behalf of Tyler Steven Meadows; Melbourne, Florida; Court of Federal Claims Number 02–1059V
233. Jean and Frank Krumenacker on behalf of Frank Krumenacker; New York, New York; Court of Federal Claims Number 02–1060V

234. Vivian Leites on behalf of Addison Nicholas Leites; New York, New York; Court of Federal Claims Number 02–1061V
235. Stacey and Lawrence Wolff on behalf of Jordan Wolff; New York, New York; Court of Federal Claims Number 02–1062V
236. Marie and John Tonini on behalf of Nicholas Tonini; New York, New York; Court of Federal Claims Number 02–1063V
237. Michele and Jeffrey Horvath on behalf of Joshua Horvath; New York, New York; Court of Federal Claims Number 02–1064V
238. Cynthia Gowins on behalf of Brandon Gowins; Vienna, Virginia; Court of Federal Claims Number 02–1065V
239. Erica Egan on behalf of Bryan Mueller; Vienna, Virginia; Court of Federal Claims Number 02–1066V
240. Quentin Smith and Victoria Peay on behalf of Antoinette Y. Smith; Baltimore, Maryland; Court of Federal Claims Number 02–1067V
241. Sabina and Phillip Degaetano on behalf of Nicholas Degaetano; Great Neck, New York; Court of Federal Claims Number 02–1068V
242. Terry and Thomas Thackeray on behalf of Lauren Thackeray; Great Neck, New York; Court of Federal Claims Number 02–1069V
243. Margaret King on behalf of Marquell Johnson; Great Neck, New York; Court of Federal Claims Number 02–1070V
244. Troy Soper and Marie Martin on behalf of Ryan Soper; Great Neck, New York; Court of Federal Claims Number 02–1071V
245. Laura Thomas on behalf of Samantha Thomas; Great Neck, New York; Court of Federal Claims Number 02–1072V
246. Victoria and Luke Brunson on behalf of Zachary Boggs Brunson; Chamblee, Georgia; Court of Federal Claims Number 02–1073V
247. Gary Champagne on behalf of Kevin Champagne; Culloden, Georgia; Court of Federal Claims Number 02–1074V
248. Suzanne and Richard Harvey on behalf of Bryceson Harvey; Lake Park, Georgia; Court of Federal Claims Number 02–1075V
249. Laura and Ricky Driver on behalf of Ricky Elbert Davis, Jr.; Salisbury, North Carolina; Court of Federal Claims Number 02–1081V
250. Cynthia Davis on behalf of Layne Patrick Davis; Salisbury, North Carolina; Court of Federal Claims Number 02–1082V
251. Carolyn Crowsom Hollar on behalf of Beau Harris Crowsom; Salisbury, North Carolina; Court of Federal Claims Number 02–1083V
252. Robin and Mark Arnold on behalf of Jonathan Arnold; Salisbury, North Carolina; Court of Federal Claims Number 02–1084V
253. Laura and Scott Bono on behalf of Jackson Bono; Salisbury, North Carolina; Court of Federal Claims Number 02–1085V
254. Leeann and Michael Calkins on behalf of Patricia Calkins; Charleston, South Carolina; Court of Federal Claims Number 02–1086V
255. Leeann and Michael Calkins on behalf of Jessica Calkins; Charleston, South Carolina; Court of Federal Claims Number 02–1087V
256. Trenesha McClary on behalf of Nakira Atkinson; Charleston, South Carolina; Court of Federal Claims Number 02–1088V
257. Drakoulis and Athanasios Petsos on behalf of Drakoulis Christodoulos Petsos; Hamilton, New Jersey; Court of Federal Claims Number 02–1089V
258. Katherine and Robert Green on behalf of Alan Chandler Green; Erie, Pennsylvania; Court of Federal Claims Number 02–1090V
259. Kerriann and Jeffrey Adler on behalf of Jeffrey Raymond Adler, II; Fullerton, California; Court of Federal Claims Number 02–1091V
260. Christie Lynn Haggard and Edgar Paul Conner on behalf of Sean Patrick Conner; Nashville, Tennessee; Court of Federal Claims Number 02–1092V
261. Patricia and Michael Harvan on behalf of Luke Alexander Harvan; Montgomeryville, Pennsylvania; Court of Federal Claims Number 02–1093V
262. Horacio Correa on behalf of Juliana Correa; Vienna, Virginia; Court of Federal Claims Number 02–1097V
263. Cynthia Darling on behalf of Garrett Darling; Vienna, Virginia; Court of Federal Claims Number 02–1098V
264. John Jodsaas on behalf of Johleen Jodsaas; Vienna, Virginia; Court of Federal Claims Number 02–1099V
265. Tammy Henschel on behalf of Noah Wade Henschel; Boston, Massachusetts; Court of Federal Claims Number 02–1100V
266. Nancy and Troy Morris on behalf of Tiston Levi Morris; Vidalia, Georgia; Court of Federal Claims Number 02–1101V
267. Tashia and Robert Smalls on behalf of Quentin Josef Smalls; Flushing, New York; Court of Federal Claims Number 02–1102V
268. Christine and Clark Parr on behalf of Blake Christopher Parr; Denver, Colorado; Court of Federal Claims Number 02–1103V
269. Lori and Jeffrey Yanuchi on behalf of Brooks Jordan Yanuchi; Fairbanks, Alaska; Court of Federal Claims Number 02–1104V
270. Joan and Thomas Lutz on behalf of Thomas Lutz; Libertyville, Illinois; Court of Federal Claims Number 02–1105V
271. Leila and Michael Voss on behalf of Jacob Michael Voss; Eureka, California; Court of Federal Claims Number 02–1106V
272. Stacy and Michael Vivona on behalf of Nicholas George Vivona; Levittown, New York; Court of Federal Claims Number 02–1107V
273. David Diconza; Boston, Massachusetts; Court of Federal Claims Number 02–1109V
274. William D. Fichera; Boston, Massachusetts; Court of Federal Claims Number 02–1110V
275. Mark Tremblay on behalf of Oliver Tremblay; Boston, Massachusetts; Court of Federal Claims Number 02–1111V
276. Nadine Fitzgerald on behalf of Nya Fitzgerald; Boston, Massachusetts; Court of Federal Claims Number 02–1112V
277. Carolyn Brown on behalf of Paige Brown; Boston, Massachusetts; Court of Federal Claims Number 02–1113V
278. Elaine Williams on behalf of Nicholas Lemon; Boston, Massachusetts; Court of Federal Claims Number 02–1114V
279. Raymond Laspada on behalf of Tyler Laspada; Boston, Massachusetts; Court of Federal Claims Number 02–1115V
280. Donna Cooper on behalf of Jonathan Cooper; Boston, Massachusetts; Court of Federal Claims Number 02–1116V
281. David Schacter on behalf of Jacob Schacter; Boston, Massachusetts; Court of Federal Claims Number 02–1117V
282. Thomas Hoxie on behalf of Kyle Hoxie; Boston, Massachusetts; Court of Federal Claims Number 02–1118V
283. Sharon Ackerman on behalf of Frederick M. Ackerman, III; Morganville, New Jersey; Court of Federal Claims Number 02–1119V
284. Lynn and Michael Bollish on behalf of Brandon Michael Bollish; Dallas, Texas; Court of Federal Claims Number 02–1120V
285. Roberta Barton-Patino on behalf of George Patino; New Orleans, Louisiana; Court of Federal Claims Number 02–1121V
286. Jane and Kenneth Lang on behalf of Robert Michael Lang; Salisbury, North Carolina; Court of Federal Claims Number 02–1124V
287. Patricia and John Hamilton on behalf of Evan Hamilton; Salisbury, North Carolina; Court of Federal Claims Number 02–1125V

288. Valerie and Brent Koeval on behalf of Helen Koeval; Salisbury, North Carolina; Court of Federal Claims Number 02–1126V
289. Theresa and Tom Vollmer on behalf of Julia Madison Vollmer; Salisbury, North Carolina; Court of Federal Claims Number 02–1127V
290. O.C. and Teryl Dorham on behalf of Alexis Dorham; Aledo, Texas; Court of Federal Claims Number 02–1130V
291. Enrique Rodriguez on behalf of Jeremiah Rodriguez; Boston, Massachusetts; Court of Federal Claims Number 02–1131V
292. Victoria Cummings on behalf of Deanna Cummings; Vienna, Virginia; Court of Federal Claims Number 02–1132V
293. Nan Conlon; New Brunswick, New Jersey; Court of Federal Claims Number 02–1133V
294. Kelly Kerns on behalf of Andrew Kerns; Boston, Massachusetts; Court of Federal Claims Number 02–1137V
295. Elizabeth Pabey on behalf of Brandon Garcia; Boston, Massachusetts; Court of Federal Claims Number 02–1138V
296. Kimberly Gayon on behalf of Rafael Gayon; Boston, Massachusetts; Court of Federal Claims Number 02–1139V
297. Linda Chen on behalf of Jason Chen; Boston, Massachusetts; Court of Federal Claims Number 02–1140V
298. Tiffany Brassard on behalf of Kayden Brassard; Boston, Massachusetts; Court of Federal Claims Number 02–1141V
299. Jamie Blockinger on behalf of Aaron Blockinger; Boston, Massachusetts; Court of Federal Claims Number 02–1142V
300. Maria Cerrato on behalf of Brandon Cerrato; Boston, Massachusetts; Court of Federal Claims Number 02–1143V
301. Lavanda Palmer on behalf of Marcus Palmer; Boston, Massachusetts; Court of Federal Claims Number 02–1144V
302. Anthony Thompson on behalf of James Thompson; Boston, Massachusetts; Court of Federal Claims Number 02–1145V
303. Sherone Sader on behalf of Shaun Sader; Boston, Massachusetts; Court of Federal Claims Number 02–1146V
304. Hillari O'Brien on behalf of Nicholas O'Brien; Boston, Massachusetts; Court of Federal Claims Number 02–1147V
305. Pamela Nichol on behalf of Anthony Nichol; Boston, Massachusetts; Court of Federal Claims Number 02–1148V
306. Steven Miller on behalf of Danielle Miller; Boston, Massachusetts; Court of Federal Claims Number 02–1149V
307. Cynda Mayfield on behalf of Jayson Mayfield; Boston, Massachusetts; Court of Federal Claims Number 02–1150V
308. Kelly Kerns on behalf of Daniel Kerns; Boston, Massachusetts; Court of Federal Claims Number 02–1151V
309. Jodi Vanmeter on behalf of Ryan Vanmeter; Boston, Massachusetts; Court of Federal Claims Number 02–1152V
310. Veronica Lynch on behalf of Yancey James Lynch; Great Neck, New York; Court of Federal Claims Number 02–1153V
311. Yolanda and Alex Orozco on behalf of Alex Christopher Orozco, Jr.; Phoenix, Arizona; Court of Federal Claims Number 02–1154V
312. Antoinette and Timothy Leonard on behalf of Tyler Leonard; New Orleans, Louisiana; Court of Federal Claims Number 02–1155V
313. Brandy and Clint Guyban on behalf of Matthew Guyban; New Orleans, Louisiana; Court of Federal Claims Number 02–1156V
314. Dawn and Daryl Sam on behalf of Daryl Sam, Jr.; New Orleans, Louisiana; Court of Federal Claims Number 02–1157V
315. Quotisha Sharper on behalf of Emile Clay; New Orleans, Louisiana; Court of Federal Claims Number 02–1158V
316. Addie M. Ryman on behalf of Anthony Marcelle; New Orleans, Louisiana; Court of Federal Claims Number 02–1159V
317. Andrea Chertkow on behalf of Tyler Chertkow; San Diego, California; Court of Federal Claims Number 02–1161V
318. Cori Padilla and Julio Marquez on behalf of Antonio C. Marquez, Deceased; Aurora, Colorado; Court of Federal Claims Number 02–1162V
319. Deborah Laughter on behalf of Caleb Jamison Adams; Salisbury, North Carolina; Court of Federal Claims Number 02–1164V
320. Julie Ann Teat on behalf of John Christian Arney; Salisbury, North Carolina; Court of Federal Claims Number 02–1165V
321. Debra and Carlos Owens on behalf of Sean Owens; Salisbury, North Carolina; Court of Federal Claims Number 02–1166V
322. Tracey and Alton Parker on behalf of Alton P. Parker, Jr.; Salisbury, North Carolina; Court of Federal Claims Number 02–1167V
323. Amy and David Long on behalf of Walker Long; Salisbury, North Carolina; Court of Federal Claims Number 02–1168V
324. Shelley and Frederick Kraft on behalf of Alexander James Kraft; Salisbury, North Carolina; Court of Federal Claims Number 02–1169V
325. Lucinda McKinnon on behalf of Verontina McKinnon; Salisbury, North Carolina; Court of Federal Claims Number 02–1170V
326. Kimberly and Charles Kuhn on behalf of Ethan Kuhn; Houston, Texas; Court of Federal Claims Number 02–1171V
327. Alberto Puebla and Juanita Flores on behalf of Jared Allen Puebla; Houston, Texas; Court of Federal Claims Number 02–1172V
328. Samuel Briseno on behalf of Brandon Briseno; Houston, Texas; Court of Federal Claims Number 02–1173V
329. Lisa and Stephen Salbato on behalf of Nicholas Salbato; Houston, Texas; Court of Federal Claims Number 02–1174V
330. Donna and Jeff Popp on behalf of Joshua Michael Popp; Cincinnati, Ohio; Court of Federal Claims Number 02–1175V
331. Wendy and James Akers on behalf of James Cole Akers; Dobson, North Carolina; Court of Federal Claims Number 02–1176V
332. Brigitte and Larry Atkinson on behalf of Jake Alex Atkinson; North Virginia, Minnesota; Court of Federal Claims Number 02–1177V
333. Nancy and Nicholas Sierchio on behalf of David Cole Sierchio; Denville, New Jersey; Court of Federal Claims Number 02–1178V
334. Margaret and Eric Heitz on behalf of Christopher Thaddeus Pustelak; Berwyn, Illinois; Court of Federal Claims Number 02–1179V
335. Donna and Jeff Popp on behalf of Justin Dean Popp; Cincinnati, Ohio; Court of Federal Claims Number 02–1180V
336. Betzaida and Moises Colon on behalf of Gabriel Moises Colon; Fort Campbell, Kentucky; Court of Federal Claims Number 02–1181V
337. Jennifer and Aaron Donatella on behalf of Bradly Steven Donatella; Youngstown, Ohio; Court of Federal Claims Number 02–1182V
338. Frances and Danile Aull on behalf of William Daniel Blake Aull, Deceased; Owensboro, Kentucky; Court of Federal Claims Number 02–1183V
339. Theresa (McDohough) Alwuhush on behalf of Adam A. Alwuhush; Alexandria, Virginia; Court of Federal Claims Number 02–1187V
340. Senait Hagos on behalf of Muna Awlaki; Alexandria, Virginia; Court of Federal Claims Number 02–1188V
341. Tracey Coleman on behalf of Abigail M. Coleman; Alexandria, Virginia; Court of Federal Claims Number 02–1189V

342. Judith Nicosia on behalf of Michael J. Nicosia; Alexandria, Virginia; Court of Federal Claims Number 02–1190V
343. Angela M. Green on behalf of Geoffrey H. Baskerville; Alexandria, Virginia; Court of Federal Claims Number 02–1191V
344. Deborah J. Fuller on behalf of Christopher A. Brooks, Jr.; Alexandria, Virginia; Court of Federal Claims Number 02–1192V
345. Trena M. Fisher on behalf of Cody R. Fisher; Alexandria, Virginia; Court of Federal Claims Number 02–1193V
346. Shanice (Holmes) Golden on behalf of Shamont (Holmes) Golden; Alexandria, Virginia; Court of Federal Claims Number 02–1194V
347. Libra Orange on behalf of Daron J. Lightfoot; Alexandria, Virginia; Court of Federal Claims Number 02–1195V
348. Althea and James McIver on behalf of James E. McIver, III; Alexandria, Virginia; Court of Federal Claims Number 02–1196V
349. Brenda Randolph on behalf of Decarol L. Randolph; Alexandria, Virginia; Court of Federal Claims Number 02–1197V
350. Zabrina Ward on behalf of Meiko G. Ward; Alexandria, Virginia; Court of Federal Claims Number 02–1198V
351. Sandra and James Waters on behalf of Sean P. Waters; Vienna, Virginia; Court of Federal Claims Number 02–1200V
352. Trisha Cuce on behalf of Lindsay Cuce; Vienna, Virginia; Court of Federal Claims Number 02–1201V
353. Sherry Williford on behalf of Kyle Williford; Vienna, Virginia; Court of Federal Claims Number 02–1202V
354. Ted Jones, III; Vienna, Virginia; Court of Federal Claims Number 02–1203V
355. Cindy Zortman; Vienna, Virginia; Court of Federal Claims Number 02–1204V
356. Nancy and Charles Nucciarone on behalf of Anthony M. Nucciarone; Alexandria, Virginia; Court of Federal Claims Number 02–1208V
357. Julie Reber Duffield on behalf of Jessica A. Duffield; Alexandria, Virginia; Court of Federal Claims Number 02–1209V
358. Richard Green; Sicklerville, New Jersey; Court of Federal Claims Number 02–1210V
359. Lisa and Walter Graves on behalf of Hayley Nicole Graves, Deceased; Grapevine, Texas; Court of Federal Claims Number 02–1211V
360. Tracy and Scott Sugg on behalf of Lulianna Sugg; El Dorado, Arkansas; Court of Federal Claims Number 02–1213V
361. Kelly and Michael Vickers on behalf of Michael Zachary Vickers; Gonzales, Louisiana; Court of Federal Claims Number 02–1214V
362. Leslie and Jason Swink on behalf of Mark Swink; Melbourne, Florida; Court of Federal Claims Number 02–1215V
363. Rani Stevens on behalf of Corinthia Shalise Watkins, Deceased; Longview, Texas; Court of Federal Claims Number 02–1223V
364. Heather and James Turner on behalf of Taylor B. Ivy; Melbourne, Florida; Court of Federal Claims Number 02–1224V
365. Jacqueline and Scott Miller on behalf of Joel S. Miller; Melbourne, Florida; Court of Federal Claims Number 02–1225V
366. Wilmer Price on behalf of Joshua Price; Vienna, Virginia; Court of Federal Claims Number 02–1226V
367. Meagan O'Brien on behalf of Kelly O'Brien; Vienna, Virginia; Court of Federal Claims Number 02–1227V
368. Janie and Nathan Custer on behalf of Ethan Custer; Kansas City, Missouri; Court of Federal Claims Number 02–1229V
369. Meredith and Terry Hughes on behalf of Terri M. Hughes; Houston, Texas; Court of Federal Claims Number 02–1230V
370. Christine Taylor on behalf of Samuel Taylor; Houston, Texas; Court of Federal Claims Number 02–1231V
371. Lynn and Walter Kellogg on behalf of Krista Kellogg; Houston, Texas; Court of Federal Claims Number 02–1232V
372. Onna Elder on behalf of Jordan Elder; Boston, Massachusetts; Court of Federal Claims Number 02–1233V
373. Kimberly Wallace on behalf of Hunter Wood; Boston, Massachusetts; Court of Federal Claims Number 02–1234V
374. Delos Larson on behalf of Alexis Larson; Boston, Massachusetts; Court of Federal Claims Number 02–1235V
375. William Bullington on behalf of Ethan Bullington; Boston, Massachusetts; Court of Federal Claims Number 02–1236V
376. Colleen Allen on behalf of Alexa Allen; Boston, Massachusetts; Court of Federal Claims Number 02–1237V
377. Patricia Byers on behalf of Cole Byers; Boston, Massachusetts; Court of Federal Claims Number 02–1238V
378. Michelle Galliano on behalf of Brennyn Galliano; Boston, Massachusetts; Court of Federal Claims Number 02–1239V
379. Betsy Tipps on behalf of Dustin Hardebeck; Boston, Massachusetts; Court of Federal Claims Number 02–1240V
380. Arlene Marshall on behalf of Clyde L. Curtis; Alexandria, Virginia; Court of Federal Claims Number 02–1241V
381. Janie L. Davis on behalf of Caleb A. Davis; Alexandria, Virginia; Court of Federal Claims Number 02–1242V
382. Lou Edna Stevens on behalf of Tyrone Stevens, Jr.; Alexandria, Virginia; Court of Federal Claims Number 02–1243V
383. Regina Vance on behalf of Korey D. Vance; Alexandria, Virginia; Court of Federal Claims Number 02–1244V
384. Carmen K. Harris on behalf of Antonyus R. Harris; Alexandria, Virginia; Court of Federal Claims Number 02–1245V
385. Nichol Riley on behalf of Nicholas P. Riley; Alexandria, Virginia; Court of Federal Claims Number 02–1246V
386. Aujorae Lance on behalf of Tamiji Lance; Alexandria, Virginia; Court of Federal Claims Number 02–1247V
387. Mona Moody-Watson and Louis Watson on behalf of Sarina Watson; Alexandria, Virginia; Court of Federal Claims Number 02–1248V
388. Kimberly and Matthew O'Malley on behalf of Mark Joseph O'Malley; Morristown, New Jersey; Court of Federal Claims Number 02–1258V
389. Todd Altschul on behalf of April Altschul; Beaumont, Texas; Court of Federal Claims Number 02–1260V
390. Gabrielle and Sergio Nanez on behalf of Karina Isabel Nanez; El Paso, Texas; Court of Federal Claims Number 02–1261V
391. Debbie L. Hadden on behalf of Lessia Lynn Hadden; Hephzibah, Georgia; Court of Federal Claims Number 02–1262V
392. Michelle Mitchell on behalf of Daulton Mitchell; Boston, Massachusetts; Court of Federal Claims Number 02–1264V
393. Gwynne Cotter on behalf of Caleb Cotter; Boston, Massachusetts; Court of Federal Claims Number 02–1265V
394. Lori and James Cowan on behalf of Matthew Cowan; Vienna, Virginia; Court of Federal Claims Number 02–1266V
395. Cheryl Pangborn on behalf of Mason Pangborn; Vienna, Virginia; Court of Federal Claims Number 02–1267V
396. Leslie Byler on behalf of Trevor McCabe; Vienna, Virginia; Court of Federal Claims Number 02–1268V
397. Marcy Kelly on behalf of Dylan Kelly; Vienna, Virginia; Court of Federal Claims Number 02–1269V
398. Annette Cvengros on behalf of Aaron Cvengros; Vienna, Virginia; Court of Federal Claims Number 02–1270V
399. Michael Simmons on behalf of Stephen Simmons; Vienna, Virginia; Court of Federal Claims Number 02–1271V
400. Rebecca and Jack Sytsema on behalf of Nicholas Sytsema; Dallas,

Texas; Court of Federal Claims Number 02–1279V
401. Jeanne and Brian Rippentrop on behalf of Anthony Thomas Rippentrop; Dallas, Texas; Court of Federal Claims Number 02–1280V
402. Dana and Lee Halvorson on behalf of Robyn Leigh Halvorson; Dallas, Texas; Court of Federal Claims Number 02–1281V
403. Margaret Springer on behalf of Jonah Springer; Boston, Massachusetts; Court of Federal Claims Number 02–1284V
404. Vera A. Easter on behalf of Jordan Delaney Easter; Dallas, Texas; Court of Federal Claims Number 02–1285V

Dated: January 28, 2003.

Elizabeth M. Duke,

Administrator.

[FR Doc. 03–2658 Filed 2–4–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Fibroblast Growth Factor 3 (FGFR3) Receptor Knockin Mice

Dr. Chuxia Deng (NIDDK), DHHS Reference No. E–060–2003/0—Research Tool.

Licensing Contact: Marlene Shinn-Astor; 301/435–4426; *shinnm@od.nih.gov*.

Missense mutations in Fibroblast Growth Factor Receptor 3 (FGFR3) result in several human skeletal dysplasias, including the most common form of dwarfism, achondroplasia.

The NIH announces the generation of FGFR3 knockin mice, which have a Gly369Cys mutation, inserted into the mouse genome. Phenotypic analysis of the mice reveals that the FGF/FGFR3 signals affect both chondrogenesis and osteogenesis by regulating Stat proteins and cell-cycle inhibitors, and the activities of chondrocytes, osteoclasts, and osteoblasts during endochondral ossification. These mice provide a new animal model to study functions of FGF/FGFR3 signals in achondroplasia patients, which could lead to new drug discovery and therapeutic treatments.

Compositions and Methods for Inhibiting Group B Streptococcal-Induced Pulmonary Hypertension in Neonates

Rodney L. Levine et al. (NHLBI), DHHS Reference No. E–259–2002/0 filed Oct. 15, 2002.

Licensing Contact: Susan Ano; 301/435–5515; *anos@od.nih.gov*.

Group B streptococcus (GBS), the most common cause of sepsis and meningitis in human newborns, often results in respiratory distress. The underlying cause of this distress is pulmonary hypertension, historically believed to be induced by increased production of thromboxane A2 as stimulated by GBS. The technology described here reveals that the phospholipids cardiolipin and phosphotidylglycerol are causative agents of GBS-induced pulmonary hypertension. Furthermore, the technology describes administration of these phospholipids or immunogenic fragments thereof in an appropriate fashion to elicit an immune response, including administration as conjugates to hapten to enhance the binding selectivity of the resulting antibodies. Additionally, administration of antibodies to these phospholipids for the same purpose is related. The phospholipids or immunogenic fragments can also be administered in a dose-dependent manner to increase blood pressure in pulmonary arteries. Kits for administration of these phospholipids and/or anti-phospholipid antibodies are also described. The standard treatment for GBS infection is the penicillin class of antibiotics, which increases the synthesis and excretion of the two phospholipids revealed in this technology to cause pulmonary hypertension. Thus, the current technology offers a potential improvement over existing treatments.

In the course of the research that led to the above discovery, a method of separating recombinantly expressed membrane-bound proteins and membrane-associated endotoxin in gram-negative prokaryote expression systems was also developed.

p-Toluemesulfonhydrazide Derivatization for Separation and Measurement of Endogenous Estrogen Metabolites by High-Pressure Liquid Chromatography-Electrospray-Mass Spectrometry

Dr. Xia Xu (NCI), U.S. Provisional Patent Application 60/372,848 filed Apr. 15, 2002.

Licensing Contact: Brenda Hefti; 301/435–4632; *heftib@od.nih.gov*.

The current invention relates to a method for measuring endogenous estrogen levels, and this technology may be generalizable to all endogenous ketolic steroids, including estrogens, androgens, and phytoestrogens.

Specifically, the current invention is a derivatization technique that forms estrogen-p-toluenesulfonhydrazones, which can be separated and then measured using high-pressure liquid chromatography-electrospray-mass spectrometry (HPLC–ESI–MS). This method offers a number of improvements over current methods. It is more sensitive, it is faster, it is more accurate, and it requires a smaller sample size.

FXR/BAR Knockout Mouse Model

Frank Gonzalez (NCI), DHHS Reference No. E–323–2001/0—Research Tool.

Licensing Contact: Marlene Shinn-Astor; 301/435–4426; *shinnm@od.nih.gov*.

Cholesterol lowering drugs are being prescribed more and more as a way to combat high cholesterol levels associated as a precursor to heart disease. The NIH announces a new knockout mouse model that lacks the nuclear receptor FXR/BAR (bile acid receptor). The receptor controls the synthesis and transport of bile salts, which are degradation products of cholesterol. These mice could, therefore, be used to test new targets for cholesterol lowering drugs that use a new mechanism which is distinct from the current statin drugs that control HMG CoA reductase.

Telomerase Immortalized Hepatocyte Cell Lines

Xin W. Wang and Curtis Harris (NCI), DHHS Reference No. E–251–2000/0–US–01 filed Dec. 14, 2000.

Licensing Contact: Catherine Joyce; 301/435–5031; *joycec@od.nih.gov*.

This technology relates to the development of new immortalized human liver cell lines that may be used for experimental, toxicological, physiological and gene therapeutic purposes. The cell lines were immortalized using a human telomerase reverse transcriptase (hTERT) gene via a retroviral vector and were derived from human hepatocytes.

A PCT patent application corresponding to this technology (PCT/US01/47755) was published on June 20, 2002 with publication number WO 02/48319.

The above-mentioned invention is available for licensing on a non-exclusive basis.

Dated: January 28, 2003.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 03–2626 Filed 2–4–03; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Fogarty International Center; Notice of 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 of the Fogarty International Center Board.

The meeting will be opened to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the 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/or 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 grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Fogarty International Center Advisory Board.

Date: February 11, 2003.

Open: 8:30 a.m. to 12 p.m.

Agenda: A Report of the FIC Director on updates and overviews of new FIC initiatives and presentations from Dr. Elias Zerhouni, Director, NIH; Dr. Julie Greenberg, Director, DCD; and Dr. Miriam Stewart, Scientific Director of the Canadian Institutes of Health Institute of Gender and Health.

Place: National Institutes of Health, Lawton Chiles International House, Bethesda, MD 20892.

Closed: 1 p.m. to Adjournment.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Lawton Chiles International House, Bethesda, MD 20892.

Contact Person: Irene W. Edwards, Information Officer, Fogarty International Center, National Institutes Of Health, Building 31, Room B2C08, 31 Center Drive MSC 2220, Bethesda, MD 20892, 301–496–2075.

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.

Information is also available on the Institute's/Center's home page: *http://www.nih.gov/fic/about/advisory.html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.106, Minority International Research Training Grant in the Biomedical and Behavioral Sciences; 93.154, Special International Postdoctoral Research Program in Acquired Immunodeficiency Syndrome: 93.168, International Cooperative Biodiversity Groups Program; 93.934, Fogarty International Research Collaboration Award; 93.989, Senior International Fellowship Awards Program, National Institutes of Health, HHS)

Dated: January 27, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2622 Filed 2–4–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Cancer Institute Board of Scientific Advisors.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Board of Scientific Advisors.

Date: March 3–4, 2003.

Time: March 3, 2003, 8 a.m. to 10:15 p.m.

Agenda: Joint meeting of the NCI Board of Scientific Advisors and NCI Board of Scientific Counselors; Report of the Director, NCI; Legislative Update; and Ethics Overview.

Place: National Cancer Institute, Building 31, C Wing, 6 Floor, 9000 Rockville Pike, Conference Room 10, Bethesda, MD 20892.

Time: March 3, 2003, 10:15 a.m. to 6 p.m.

Agenda: Ongoing and New Business; Reports of Program Review Group(s); and Budget Presentation; Reports of Special Initiatives; RFA and RFP Concept Reviews; and Scientific Presentations.

Place: National Cancer Institute, Building 31, C Wing, 6 Floor, 9000 Rockville Pike, Conference Room 10, Bethesda, MD 20892.

Time: March 4, 2003, 8:30 a.m. to 1 p.m.

Agenda: Reports of Special Initiatives; RFA and RFP Concept Reviews; and Scientific Presentations.

Place: National Cancer Institute, Building 31, C Wing, 6 Floor, 9000 Rockville Pike, Conference Room 10, Bethesda, MD 20892.

Contact Person: Paulette S. Gray, PhD, Executive Secretary, Deputy Director, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, 8th Floor, Rm. 8141, Bethesda, MD 20892, 301–496–4218.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/bsa.htm*, where an agenda and any additional information for the meeting will be posted when available.

(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 27, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2621 Filed 2–4–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center on Minority Health and Health Disparities; Notice of 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 a meeting of the National Advisory Council on Minority Health and Health Disparities.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the 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 Advisory Council on Minority Health and Health Disparities.

Date: February 24, 2003.

Open: 8:30 a.m. to 1:30 p.m.

Agenda: The agenda will include Opening Remarks, Administrative Matters, Director's Report, NCMHD, and other business of the Council.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: 1:30 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Tommy L. Broadwater, PhD., Senior Advisor to the Director, National Center on Minority Health, and Health Disparities, 6707 Democracy Plaza, Room 800, Bethesda, MD 20892, 301–402–1366.

Dated: January 28, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2610 Filed 2–4–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; 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 552(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 Program Project (P01s) Applications.

Date: February 25, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Raddison Governors Inn, I–40 at Davis Drive, Exit 280, Research Triangle Park, NC 27709.

Contact Person: Sally Eckert-Tilotta, PhD, National Inst. of Environmental Health Sciences, Office of Program Operations, Scientific Review Branch, PO Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–1446, *eckertt1@niehs.nih.gov.*

(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 28, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2611 Filed 2–4–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel, NIMH Schizophrenia Conte Centers.

Date: March 3–4, 2003.

Time: 8 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: Houmam H Araj, PhD., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9608, Bethesda, MD 20892–9608, 301–443–1340, *haraj@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Conte Centers For Mechanisms of Synaptic Signaling, Circadian Rhythms and Sexual Dimorphic Brain Injury.

Date: March 6–7, 2003.

Time: 9 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: Peter J. Sheridan, PhD., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9606, Bethesda, MD 20892–9606, 301–443–1513, *psherida@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: January 28, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2612 Filed 2–4–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel, Translational Research.

Date: February 21, 2003.

Time: 10:30 a.m. to 11:15 a.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Peter J. Sheridan, PhD., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606, 301–443–1513, *psherida@mail.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: National Institute of Mental Health Special Emphasis Panel, Translational Research in Behavioral Science.

Date: February 21, 2003.

Time: 11:15 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Peter J. Sheridan, PhD., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606, 301–443–1513, *psherida@mail.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: National Institute of Mental Health Special Emphasis Panel, ACISR & DCISR Center—Services.

Date: March 5, 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: Henry J. Haigler, Ph.D., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6150, MSC 9608, Bethesda, MD 20892–9608, 301–443–7216, *hhaigler@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: January 28, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2613 Filed 2–4–03; 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 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 Allergy and Infectious Diseases Special Emphasis Panel, Comprehensive International Program of Research on AIDS (CIPRA).

Date: February 24, 2003.

Time: 10 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 6700 B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Robert C. Goldman, PhD., Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 3124, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–8424, *rg159w@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 28, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2614 Filed 2–4–03; 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 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 on Alcohol Abuse and Alcoholism Special Emphasis Panel, ZAA1 BB (14) Review Meeting (1 R01 Application).

Date: February 20, 2003.

Time: 8 a.m. to 9 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH/NIAAA, Willco Building, 6000 Executive Blvd., 409, Bethesda, MD 20892–7003, (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, 301–443–9897, etaylor@niaaa.nih.gov.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, ZAA1 FF (16)—R21 & K23 Special Emphasis Panel Review.

Date: February 24, 2003.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Willco Building, 6000 Executive Blvd., Room 409, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Sean O'Rourke, 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, 301–443–2861.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, Prevention and Epidemiology Alcohol Review Committee—ZAA1 FF (10).

Date: February 28, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn Hotel, 924 Twenty-Fifth Street, NW., Washington, DC 20037.

Contact Person: Sean N. O'Rourke, 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, 301–443–2861.

(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 28, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2615 Filed 2–4–03; 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. Food and Waterborne Diseases Integrated Research Network.

Date: February 26–28, 2003.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate contract proposals.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Gerald L. McLaughlin, PhD, Scientific Review Administrator, Scientific Review Program, National Institute of Allergy and Infectious Diseases, DEA/NIH/DHHS, 6700–B Rockledge Drive, MSC 7616, Room 2212, Bethesda, MD 20892–7616, 301–436–7465, *gm145a@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 29, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2616 Filed 2–4–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Environmental Health Sciences Special Emphasis Panel, February 12, 2003, 9:30 a.m. to February 12, 2003, 10:30 a.m., which was published in the **Federal Register** on January 16, 2003, FR68: 2343.

The time of this meeting has change from 9:30 a.m. as previously advertised, to 1 p.m. The meeting is closed to the public

Dated: January 29, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2617 Filed 2–4–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Environmental Health Sciences Special Emphasis Panel, February 19, 2003, 10 a.m. to February 19, 2003, 1 p.m., which was published in the **Federal Register** on January 16, 2003, FR68: 2344.

The time of this meeting has changed from 10 a.m., as previously advertised, to 11 a.m. The meeting is closed to the public.

Dated: January 29, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2618 Filed 2–4–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; 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 Deafness and Other Communications Disorders Special Emphasis Panel. NIDCD Training and Conference Grants.

Date: March 4, 2003.

Time: 1 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Ali A. Azadegan, DVM, PHD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NIDCD, NIH, EPS–400C, 6120 Executive Blvd MSC 7180, Bethesda, MD 20892–7180, (301) 496–8683, *azadegan@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: January 29, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2619 Filed 2–4–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 on Aging Special Emphasis Panel, Clinical Trial R01'S.

Date: February 20, 2003.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Scientific Review Office, National Institute on Aging, 7201 Wisconsin Avenue, 2C212 Gateway Building, Bethesda, MD 20814 (Telephone Conference Call).

Contact Person: Ramesh Vemuri, PhD, National Institute on Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, Determinants of Retirement Behavior.

Date: February 20–21, 2003.

Time: 7 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Gateway Hotel, 6101 West Century Blvd., Los Angeles, CA 90045.

Contact Person: Alfonso R. Latoni, PhD, Health Scientist Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20892, 301/496–9666, *latonia@mail.nih.gov*.

Name of Committee: National Institute on Aging Special Emphasis Panel, Alzheimer's Disease Models.

Date: February 24–25, 2003.

Time: 6 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton University City, 36th Chestnut Streets, Philadelphia, PA 19104.

Contact Person: Louise L. Hsu, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–7705.

Name of Committee: National Institute on Aging Special Emphasis Panel, Aging Immune System.

Date: February 25, 2003.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: James P. Harwood, PhD, Deputy Chief, Scientific Review Office, Gateway Building 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, (301) 496–9666, *harwoodj@mail.nih.gov*.

Name of Committee: National Institute on Aging Special Emphasis Panel, The Effects of Lipid Oxidation in Alzheimer's Disease.

Date: February 25–26, 2003.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Renaissance Madison Hotel, 515 Madison Street, Seattle, WA 98104.

Contact Person: Arthur D. Schaerdel, DVM, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Initial Review Group, Behavior and Social Science of Aging Review Committee, NIA–S.

Date: March 13–14, 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: Alfonso R. LaToni, PhD, Health Scientist Administrator, Scientific Review Office, National Institute on Aging, Gateway Building 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301/496–9666, *latonia@mail.nih.gov*.

Dated: January 27, 2003.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2623 Filed 2–4–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Recombinant DNA Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should inform the contact person listed below in advance of the meeting.

Name of Committee: Recombinant DNA Advisory Committee (RAC).

Date: February 10, 2003.

Time: 8:30 am to 4:30 pm.

Agenda: The Committee will review new data from a retroviral-mediated gene transfer clinical trial in Severe Combined Immunodeficiency (SCID) that could be important to the safety of participants in gene transfer clinical trials that use retroviral vectors. The discussion of this new information may lead to changes in the recommendations on the safety of the clinical gene transfer trials in SCID formulated by the RAC at its December 2002 meeting. In addition, the RAC may make recommendations pertaining to the safety and conduct of gene transfer clinical trials using retroviral vectors.

The RAC is meeting due to the potential significance of this new data and the need for expeditious deliberation and public discussion of its potential implications for the safety and conduct of clinical gene transfer trials using retroviral vectors.

Place: National Institutes of Health, 9000 Rockville Pike, Building 45, Main Auditorium, Bethesda, Maryland 20892.

Contact: Stephen Rose, Ph.D., Executive Secretary, Recombinant DNA Advisory Committee, Office of Biotechnology Activities, Rockledge 1, Room 750, Bethesda MD 20892, (301) 496–9839.

This notice is being published less than 15 days before the meeting due to the emergency nature of the actions involved.

Information is also available on the Institute's/Center's home page: *http://www4.od.nih.gov/oba/,* where an agenda and any additional information for the meeting will be posted when available.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which DNA recombinant molecules techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both and national and international, have elected to follow the NIH Guidelines. In lieu of the individual programs listed in the Catalog of Federal Domestic Assistance are affected.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally, 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: January 27, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2620 Filed 2–4–03; 8:45 am]

BILLING CODE 4140–0–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/or 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 grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: GMB.

Date: February 11, 2003.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Shirley Hilden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7814, Bethesda, MD 20892. (301) 435–1198.

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, Radioimmunotherapy.

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: Paul K. Strudler, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6186, MSC 7804, Bethesda, MD 20892. (301) 435–1716. *strudlep@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Integrative, Functional and Cognitive Neuroscience 1.

Date: February 19–20, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Gamil C Debbas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7844, Bethesda, MD 20892. (301) 435–1018.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Molecular, Cellular and Developmental Neurosciences 5.

Date: February 19–20, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Jurys Washington Hotel, 1500 New Hampshire Avenue, NW., Washington, DC 20036.

Contact Person: Syed Husain, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7850, Bethesda, MD 20892. (301) 435–1224. *husains@csr.nih.gov.*

Name of Committee: Pathophysiological Sciences Integrated Review Group, Alcohol and Toxicology Subcommittee 1.

Date: February 19–20, 2003.

Time 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Monarch Hotel, 2401 M Street, NW. Washington, DC 20037.

Contact Person: Patricia Greenwel, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2175, MSC 7818, Bethesda, MD 20892. (301)– 435–1169. *greenwelp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS W 01M:SAT Member Conflict.

Date: February 19, 2003.

Time 8 a.m. to 9:30 a.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 2007.

Contact Person: Dharam S. Dhindsa, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892. (301) 435–1174. *dhindsad@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Molecular, Cellular and Developmental Neurosciences 4.

Date: February 19–20, 2003.

Time 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Peter B. Guthrie, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7850, Bethesda, MD 20892. (301) 435–1239. *guthriep@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Bacteriology and Mycology Subcommittee 2.

Date: February 19–20, 2003.

Time 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.

Contact Person: Melody Mills, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, MSC 7808, Room 4190, Bethesda, MD 20892. (301)–435–0903.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS W. 03M:SAT Member Conflict.

Date: February 19, 2003.

Time 9:30 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Dharam S. Dhindsa, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892. (301) 435–1174. *dhindsad@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Mycoplasma Respiratory Disease.

Date: February 19, 2003.

Time: 9:30 a.m. to 11:30 a.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 W 04M:SAT Member Conflict.

Date: February 19, 2003.

Time: 10:30 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Dharam S. Dhindsa, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892. (301) 435–1174. *dhindsad@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowship Review: Sensory and Motor Systems Physiology.

Date: February 19, 2003.

Time: 10:30 a.m. to 5:30 p.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.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Q-Microbial Genetics:Quorum.

Date: February 20–21, 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: Alexander D. Politis, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892. (301) 435–1225. *politisa@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Alcohol and Toxicology Subcommittee 3.

Date: February 20–21, 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: Christine Melchior, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7816, Bethesda, MD 20892. (301) 435–1713.

Name of Committee: Biochemical Sciences Integrated Review Group, Medical Biochemistry Study Section.

Date: February 20–21, 2003.

Time: 8 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Monarch Hotel, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Camilla E. Day, PhD, Scientific Review Administrator, Genetic Sciences IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2208, MSC 7890, Bethesda, MD 20892. (301) 435–1037. *dayc@csr.nih.gov.*

Name of Committee: Cardiovascular Sciences Integrated Review Group, Hematology Subcommittee 1.

Date: February 20–21, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Robert Su, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4134, MSC 7802, Bethesda, MD 20892. (301) 435–1195.

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Molecular and Cellular Biophysics Study Section.

Date: February 20–21, 2003.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: Nancy Lamontagne, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4170, MSC 7806, Bethesda, MD 20892. (301) 435–1726. *lamontan@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Molecular, Cellular and Developmental Neurosciences 2.

Date: February 20–21, 2003.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin Embassy Row, 2100 Massachusetts Avenue, NW., Washington, DC 20008.

Contact Person: Gillian Einstein, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5198, MSC 7850, Bethesda, MD 20892. (301) 435–4433.

Name of Committee: Cell Development and Function Integrated Review Group, Cell Development and Function 3.

Date: February 20–21, 2003.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Gerhard Ehrenspeck, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5138, MSC 7840, Bethesda, MD 20892. (301) 435–1022. *ehrenspg@csr.nih.gov.*

Name of Committee: Nutritional and Metabolic Sciences Integrated Review Group, Metabolism Study Section.

Date: February 20–21, 2003.

Time: 8 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: Ann A. Jerkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7892, Bethesda, MD 20892. (301) 435–4514. *jerkinsa@csr.nih.gov.*

Name of Committee: Biochemical Sciences Integrated Review Group, Pathobiochemistry Study Section.

Date: February 20–21, 2003.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Zakir Bengali, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5150, MSC 7842, Bethesda, MD 20892. (301) 435–1742.

Name of Committee: Biochemical Sciences Integrated Review Group, Biochemistry Study Section.

Date: February 20–21, 2003.

Time: 8 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Michael M. Sveda, PhD, Scientific Review Administrator, Biochemistry Study Section, Biochemical Sciences IRG, 6701 Rockledge Drive, Room 5152, MSC 7842, Bethesda, MD 20892. (301) 435–3565. *svedam@csr.nih.gov.*

Name of Committee: Oncological Sciences Integrated Review Group, Experimental Therapeutics Subcommittee 1.

Date: February 20–21, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Arlington, 1325 Wilson Boulevard, Arlington, VA 22209.

Contact Person: Philip Perkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892. (301) 435–1718. *perkins@csr.nih.gov.*

Name of Committee: Immunological Sciences Integrated Review Group, Immunobiology Study Section.

Date: February 20–21, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn, Conference Room, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Betty Hayden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892. (301) 435–1223.

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Biophysical Chemistry Study Section.

Date: February 20–21, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Governor's House Hotel, 1615 Rhode Island Avenue, NW., Washington, DC.

Contact Person: Arnold Revzin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7824, Bethesda, MD 20892. (301) 435–1153.

Name of Committee: Center for Scientific Review Emphasis Panel, Social Psychology, Personality and Interpersonal Processes.

Date: February 20–21, 2003.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, Somerset Conference Room, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Michael Micklin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892. (301) 435–1258. *micklinm@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Process Initial Review Group,

Biobehavioral and Behavioral Processes 3. Language and Communication (LCOM).

Date: February 20–21, 2003.

Time: 8:30 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: Weijia Ni, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, MSC 7848, (for overnight mail use room # and 20817 zip), Bethesda, MD 20892. (301) 435–1507. *niw@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Behavioral Medicine: Interventions and Outcomes.

Date: February 20–21, 2003.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: George Washington University Inn, 824 New Hampshire Ave., NW., Washington, DC 20037.

Contact Person: Lee S. Mann, PhD, JD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7848, Bethesda, MD 20892. (301) 435–0677.

Name of Committee: Cell Development and Function Integrated Review Group, International and Cooperative Projects Study Section.

Date: February 20–21, 2003.

Time: 8:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont, 2401 M Street, Washington, DC 20037.

Contact Person: Sandy Warren, DMD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5134, MDC 7840, Bethesda, MD 20892. (301) 435–1019.

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Bio-Organic and Natural Products Chemistry Study Section.

Date: February 20–21, 2003.

Time : 8:30 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: Mike Radtke, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892. (301) 435–1728, *radtkem@csr.nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Integrative, Functional and Cognitive Neuroscience 7.

Date: February 20–21, 2003.

Time : 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle, 1 Washington Circle, NW.,Washington, DC 20037.

Contact Person: Bernard F. Driscoll, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7844, Bethesda, MD 20892. (301) 435–1242.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Epidemiology of Clinical Disorders and Aging.

Date: February 20–21, 2003.

Time : 8:30 a.m. to 4 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: Mary Ann Guadagno. PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1104, MSC 7780, Bethesda, MD 20892. (301) 435–8011.

Name of Committee: Cell Development and Function Integrated Review Group, Cell Development and Function 1.

Date: February 20–21, 2003.

Time : 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington Embassy Row, 2015 Massachusetts Ave., NW., Washington, DC 20036.

Contact Person: Michael H. Sayre, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892. (301) 435–1219 *sayrem@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Complement and SLE.

Date: February 20, 2003.

Time : 12:15 p.m. to 1:15 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: George W. Chacko, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6707 Rockledge Drive, Room: 4202, MSC: 7812, Bethesda, MD 20892, (301) 435–1220. *chackoge@csr.nih.gov*.

Name of Committee: Social Sciences, Nursing, Epidemiology and Methods Integrated Review Group, Social Sciences, Nursing, Epidemiology and Methods 5.

Date: February 21, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington Embassy Row, 2015 Massachusetts Avenue, NW., Washington, DC 20036.

Contact Person: Ann Hardy, DRPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892. (301) 435–0695. *hardyan@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Innate Immunity/Host Defense.

Date: February 21, 2003.

Time: 8:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 Twenty-Fifth Street, NW., Washington, DC 20037.

Contact Person: Calbert A. Laing, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4210, MSC 7812, Bethesda, MD 20892. (301) 435–0695. *laingc@csr.nih.gov*.

(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 29, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2609 Filed 2–4–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: ''Interleukin-2 Receptor and Applications Thereof''

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the inventions embodied in U.S. Patent No. 5,833,983, entitled ''Interleukin-2 Receptor and Applications Thereof,'' to Celltech R&D Ltd., a non-U.S. company with headquarters in the United Kingdom.

The prospective exclusive license territory may be worldwide and the field of use may be therapeutics for the treatment of inflammatory diseases.

DATES: Only written comments and/or license applications which are received by the National Institutes of Health on or before April 7, 2003 will be considered.

ADDRESSES: Requests for copies of the patent, inquiries, comments and other materials relating to the contemplated exclusive license should be directed to: Matthew B. Kiser, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804. Telephone:

(301) 435–5236; Facsimile (301) 402–0220; E-mail *kiserm@od.nih.gov*.

SUPPLEMENTARY INFORMATION: U.S. Patent No. 5,833,983 relates to the field of receptor molecules. Specifically, the technology is related to a new polypeptide receptor for interleukin-2, which is a component of the high affinity IL–2 receptor, antibodies against this new polypeptide and recombinant interleukins capable of binding to the new receptor.

The prospective exclusive 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 exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: January 28, 2003.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 03–2625 Filed 2–4–03; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: ''Spatially and Temporal Control of Gene Expression Protein Promoter in Combination with Local Heat''

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the inventions embodied in International Patent Application No. PCT/US97/15270, entitled ''Spatially and Temporal Control of Gene Expression Protein Promoter in Combination with Local Heat,'' to Celsion Corporation, a US company with headquarters in Maryland.

The prospective exclusive license territory may be worldwide and the field of use may be limited to gene-based therapeutics for the treatment of cancer.

DATES: Only written comments and/or license applications which are received by the National Institutes of Health on or before April 7, 2003 will be considered.

ADDRESSES: Requests for copies of the patent, inquiries, comments and other materials relating to the contemplated exclusive license should be directed to: Matthew B. Kiser, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804. Telephone: (301) 435–5236; Facsimile (301) 402–0220; E-mail *kiserm@od.nih.gov*.

SUPPLEMENTARY INFORMATION: International Patent Application No. PCT/US97/15270 relates to the spatial and temporal control of exogenous gene expression in genetically engineered cells and organisms. In particular, it discloses the use of heat inducible promoters, such as the promoter of heat shock genes to control the expression of exogenous genes. It further relates to the use of focused ultrasound to heat cells that contain therapeutic genes under the control of heat shock promoters, thereby inducing the expression of therapeutic genes.

The prospective exclusive 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 exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: January 28, 2003.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 03–2624 Filed 2–4–03; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4572–D–31]

Order of Succession for the Office of Housing

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice of Order of Succession.

SUMMARY: In this notice, the Assistant Secretary for Housing designates the Order of Succession for the Office of Housing. This Order of Succession supersedes the Order of Succession for the Assistant Secretary for Housing, published on August 22, 2000 (65 FR 51015).

EFFECTIVE DATE: January 27, 2003.

FOR FURTHER INFORMATION CONTACT: Eliot C. Horowitz, Senior Advisor to the Assistant Secretary for Housing—Federal Housing Commissioner, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9110, Washington, DC 20410–0500. Telephone (202) 708–1490 (this is not a toll-free number). A telecommunications device for hearing- and speech-impaired persons (TTY) is available at 1–800–877–9339 (Federal Information relay Service) (this is a toll-free number).

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Housing is issuing this Order of Succession of officials authorized to perform the functions and duties of the Office of the Assistant Secretary for Housing when, by reason of absence, disability, or vacancy in office, the Assistant Secretary is not available to exercise the powers or perform the duties of the office. This Order of Succession is subject to the provisions of the Vacancy Reform Act of 1998, 5 U.S.C. 3345–3349d. This publication supersedes the Order of Succession notice published on August 22, 2000, at 65 FR 51015.

Accordingly, the Assistant Secretary for Housing designates the following Order of Succession:

Section A. Order of Succession

Subject to the provisions of the Vacancy Reform Act of 1998, during any period when, by reason of absence, disability, or vacancy in office, the Assistant Secretary for Housing is not available to exercise the powers or perform the duties of the Office of Assistant Secretary for Housing, the following officials within the Office of Housing are hereby designated to exercise the powers and perform the duties of the Office:

(1) General Deputy Assistant Secretary for Housing;

(2) Deputy Assistant Secretary for Finance and Budget;

(3) Deputy Assistant Secretary for Operations;

(4) Deputy Assistant Secretary for Regulatory Affairs and Manufactured Housing;

(5) Director of the Office of Multifamily Housing Assistance Restructuring (OMHAR);

(6) Deputy Assistant Secretary for Multifamily Housing;

(7) Deputy Assistant Secretary for Single Family Housing.

These officials shall perform the functions and duties of the Office in the order specified herein, and no official shall serve unless all the other officials, whose position titles precede his/hers in this order, are unable to act by reason of absence, disability, or vacancy in office.

Section B. Authority Superseded

This Order of Succession supersedes the Order of Succession for the Assistant Secretary for Housing, published on August 22, 2000, at 65 FR 51015.

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 27, 2003.

John C. Weicher,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 03–2628 Filed 2–4–03; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4572–D–30]

Redelegation of Authority to the Deputy Assistant Secretary for Public Housing Investments

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: In this notice, the Assistant Secretary for Public and Indian Housing redelegates to the Deputy Assistant Secretary for the Office of Public Housing Investments authority to monitor and enforce implementation by public housing agencies (PHAs) of section 33 of the United States Housing Act of 1937, with respect to the review of their inventory of public housing units. The purpose of the review is to identify developments (or parts of developments) that must be removed from the stock of public housing operated under Annual Contributions Contracts (ACC) with HUD, and to carry out plans to convert the developments identified into tenant-based assistance or other forms of housing assistance. Authority also is hereby redelegated to the Deputy Assistant Secretary for the Office of Public Housing Investments to review and approve or disapprove plans submitted by PHAs to HUD for the voluntary conversion of public housing units into tenant-based (or other) housing assistance under section 22 of the United States Housing Act of 1937. The review process also will determine whether the plans are consistent with assessments PHAs are required to make for public housing general occupancy developments and with other data available to the Secretary, and whether the plans meet the requirements under 24 CFR 972.230.

EFFECTIVE DATE: January 23, 2003.

FOR FURTHER INFORMATION CONTACT: Ainars Rodins, Office of Public and Indian Housing, Department of Housing and Urban Development, Special Applications Center, Chicago, IL (312) 353–6236. (This is not a toll-free number.) This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339.) Comments or questions can be submitted through the Internet to *Beverly B Hardy@hud.gov*.

SUPPLEMENTARY INFORMATION: Section 537 of the Quality Housing and Work Responsibility Act of 1998 (QHWRA) (Title V of Pub. L. 105–276, approved October 21, 1998) added a new section 33 to the United States Housing Act of 1937 (Act) (42 U.S.C. 1437 *et seq.*). Section 33 of the Act governs the required conversion of developments from the public housing stock. Section 533 of QHWRA also amended section 22 of the Act. Section 22 of the Act governs voluntary conversion of developments from the public housing stock. The term conversion in this context means the removal of public housing units from the inventory of a PHA, and the provision of tenant-based, or project-based assistance for the residents of the public housing being removed.

In addition to the PHA Agency Plan requirements, HUD will review separately plans for mandatory or voluntary conversion of public housing stock. With respect to required conversions, HUD may (1) Identify developments that PHAs have failed properly to include as falling within the statutory criteria, (2) ensure conversions are carried out in cases where PHAs have failed to develop or implement conversion plans, (3) prohibit or revise conversions erroneously identified as subject to section 33 of the Act, (4) direct the cessation of spending in connection with developments that are likely to be subject to the statutory criteria, and (5) authorize the direct transfer of capital or operating funds associated with a development that must be removed from the public housing stock for use instead for tenant-based assistance or site revitalization. HUD will approve plans for voluntary conversions (after checking to see if they are complete and include the information required under 24 CFR 972.230), if they are consistent with the initial assessments PHAs are required to submit under section 22 of the Act, unless HUD has reliable information that conflicts with the PHA's assessment.

The Secretary elsewhere has delegated to the Assistant Secretary for Public and Indian Housing (PIH) the authority to administer the Department's programs relating to public housing (see the delegation of authority published in the **Federal Register** at 48 FR 41097, September 13, 1983).

Accordingly, the Assistant Secretary for PIH redelegates that authority, as follows:

Section A. Authority Redelegated

The Assistant Secretary for PIH redelegates the following authority to the Deputy Assistant Secretary for Public Housing Investments:

1. To review and approve or disapprove actions taken and plans submitted by PHAs in connection with the required removal of certain units from the public housing stock and provision of tenant-based or project-based assistance to the residents of such developments pursuant to section 33 of the United States Housing Act of 1937 and the implementing regulations at 24 CFR part 972, and to conduct all activities related to such review, and approval or disapproval of such conversions.

2. To review and approve or disapprove plans submitted by PHAs for the voluntary conversion of units from the public housing stock into tenant-based or project-based assistance for the tenants living in the units pursuant to section 22 of the United States Housing Act of 1937 and implementing regulations at 24 CFR part 972.

Within the Office of Public Housing Investments, the review of mandatory and voluntary conversions will be handled by the Special Applications Center.

Section B. Authority to Further Redelegate

The authority redelegated to the Deputy Assistant Secretary under this notice may be redelegated within the Office of Public Housing Investments.

Dated: January 23, 2003.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 03–2629 Filed 2–4–03; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Notice of Availability of the Alternative Fueled Vehicle (AFV) Reports for Fiscal Year 1996 through Fiscal Year 2001

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Notice of Availability of the Alternative Fueled Vehicle (AFV) Reports for Fiscal Year 1996 through Fiscal Year 2001.

SUMMARY: The U.S. Department of the Interior, Office of the Secretary, is issuing this notice in order to comply with the Energy Policy Act of 1992, 42 U.S.C. 13201 *et seq.* and the United States District Court for the Northern District of California's order, in case number C 02–0027 WHA, Center for Biological Diversity, Bluewater Network and the Sierra Club v. Spencer Abraham, *et al.,* that Federal agencies must place all alternative fueled vehicle data for Fiscal Years 1996–2001 on a publicly accessible Web site. The purpose of this notice is to announce the public availability of the Department of the Interior's AFV reports for Fiscal Year 1996 through Fiscal Year 2001 at the following Web site: *http://www.doi.gov/pam*

FOR FURTHER INFORMATION CONTACT: Questions regarding the reports of the AFV report Web site should be addressed to the Office of Acquisition and Property Management [Attn: Willie Davis] 1849 C Street NW., Mail Stop 5512, Washington, DC 20240, phone: 202–208–6352.

SUPPLEMENTARY INFORMATION: The Earthjustice Environmental Law Clinic filed suit in federal court in California on January 2, 2002 on behalf of the Center for Biological Diversity, Bluewater Network and the Sierra Club against the Department of the Interior and 16 other Federal agencies for failing to comply with the alternative fueled vehicle (AFV) acquisition and reporting requirements for federal fleets imposed by the Energy Policy Act of 1992 (EPAct). The lawsuit requested the Court to order Interior and the other federal agencies to comply with EPAct requirements and offset future vehicle purchases with the number of AFVs necessary to bring them into compliance with the requirements of the EPAct.

Dated: January 27, 2003.

P. Lynn Scarlett,

Assistant Secretary—Policy, Management and Budget.

[FR Doc. 03–2707 Filed 2–4–03; 8:45 am]

BILLING CODE 4310–RF–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of the Draft Restoration Plan and Environmental Assessment for the Lone Mountain Processing, Inc.; Coal Slurry Spill Natural Resource Damage Assessment in Lee County, VA

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service), on behalf of the Department of the Interior (DOI), announces the release for public review of the Draft Restoration Plan and Environmental Assessment (RP/EA) for the Lone Mountain Processing, Inc. (LMPI) Coal Slurry Spill Natural Resource Damage Assessment in Lee County, Virginia. The RP/EA describes the trustee's proposal to restore natural resources injured as a result of a release of hazardous substances.

DATES: Written comments must be submitted on or before March 15, 2002.

ADDRESSES: Requests for copies of the RP/EA may be made to: U.S. Fish and Wildlife Service, Virginia Field Office, 6669 Short Lane, Gloucester, Virginia 23061. Written comments or materials regarding the Restoration and Compensation Determination Plan should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: John Schmerfeld, U.S. Fish and Wildlife Service, 6669 Short Lane, Gloucester, Virginia 23061. Interested parties may also call 804–693–6694, extension 107, for further information.

SUPPLEMENTARY INFORMATION: On October 24, 1996, a failure in a coal slurry impoundment associated with a coal processing plant owned by LMPI in Lee County, Virginia, resulted in the release of six million gallons of coal slurry to the Powell River watershed. The spill occurred when subsidence in the coal slurry impoundment caused the coal slurry to enter a system of abandoned underground coal mine-works. The coal slurry exited through a mine-works surface portal at Gin Creek, causing the release of the coal slurry into a series of tributaries to the Powell River. ''Blackwater,'' a mix of water, coal fines, and clay, and associated contaminants, extended far downstream. The coal slurry spill impacted fish, endangered freshwater mussels, other benthic organisms, supporting aquatic habitat, and designated critical habitat for two federally listed fish. Federally listed bats and migratory birds may have also been affected acutely due to a loss of a food supply, and chronically due to possible accumulation of contaminants through the food chain.

Under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 as amended, 42 U.S.C. 9601 *et. seq.*, ''natural resource trustees may assess damages to natural resources resulting from a discharge of oil or a release of a hazardous substance * * * and may seek to recover those damages.'' Natural resource damage assessments (NRDA) are separate from the cleanup actions undertaken at a hazardous waste or spill site, and provide a process whereby the natural resource trustees can determine the proper compensation to the public for injury to natural resources. The natural resource damage assessment process seeks to: (1) Determine whether injury to, or loss of, trust resources has occurred; (2) ascertain the magnitude of the injury or loss; (3) calculate the appropriate compensation for the injury, including the cost of restoration; and (4) develop a restoration plan that will restore, rehabilitate, replace, and/or acquire equivalent resources for those resources that were injured or lost. The judicial consent decree dated March 5, 2001, requires that the DOI utilize natural resource damages for reimbursement of past natural resource damage assessment costs, and restoration, replacement or acquisition of endangered and threatened fishes and mussels located in the Powell River and its watershed or restoration, replacement or acquisition of their habitats or ecosystems which support them, or restoration planning, implementation, oversight and monitoring.

The DOI is the sole acting Federal natural resource trustee for this case. The DOI has designated the Northeast Regional Director of the Service to act as its authorized official with regard to this

case. This RP/EA has been developed by the Service in order to address and evaluate restoration alternatives related to natural resource injuries within the Powell River watershed. The purpose of this RP/EA is to design and evaluate possible alternatives that will restore, rehabilitate, replace, or acquire natural resources and the services provided by those resources that approximate those injured as a result of the spill using funds collected as natural resource damages for injuries, pursuant to the CERCLA. This RP/EA describes the affected environment, identifies potential restoration alternatives and their plausible environmental consequences, and describes the proposed preferred alternative.

Interested members of the public are invited to review and comment on the RP/EA. Copies of the RP/EA are available for review at the Service's Virginia Field Office in Gloucester, Virginia and at the Service's Southwestern Virginia Field Office located at 330 Cummings Street, Suite A, Abingdon, Virginia 24210. Written comments will be considered and addressed in the final RP/EA.

Author: The primary author of this notice is John Schmerfeld, U.S. Fish & Wildlife Service, Virginia Field Office, 6669 Short Lane, Gloucester, Virginia 23061.

Authority: The authority for this action is the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 as amended, commonly known as Superfund (42 U.S.C. 9601 *et seq.*), and the Natural Resource Damage Assessment Regulations found at 43 CFR part 11.

Dated: January 17, 2003.

Mamie A. Parker,

Regional Director, Region 5, Fish and Wildlife Service, Department of the Interior, Designated Authorized Official.

[FR Doc. 03–2649 Filed 2–4–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compacts.

SUMMARY: Under Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register,** notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Tribal-State Compacts between the Ak-Chin Community, Cocopah Indian Tribe, Fort McDowell Yavapai Nation, Fort Mojave Indian Tribe, Gila River Indian Community, Hualapai Indian Tribe, Havasupai Indian Tribe, Kaibab Band of Paiute Indians, Navajo Nation, Pascua Yacqui Tribe, Quechan Indian Tribe, Salt River Prima-Maricopa Indian Community, San Carlos Apache Tribe, Tohono O'odham Nation, Tonto Apache Tribe, White Mountain Apache Tribe, and Yavapai-Apache Nation and the State of Arizona.

EFFECTIVE DATE: February 5, 2003.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: January 24, 2003.

Aurene M. Martin,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 03–2787 Filed 2–4–03; 8:45 am]

BILLING CODE 4310–4N–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–PF–24 1A]

Extension of Approved Information Collection, OMB Control Number 1004–0009

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is requesting the Office of Management and Budget (OMB) to extend an existing approval to collect certain information from applicants who wish to acquire a Land Use Authorization (From 2920–1) on public lands under the Federal Land Policy and Management Act (FLPMA) of 1976. The regulations at 43 CFR part 2920 provide for non-Federal use of bureau administered land via lease or permit. Uses include agriculture, trade, or manufacturing concerns and business uses such as outdoor recreation concession. BLM will determine the validity of uses proposed by private individuals and other qualified proponents from information provided on the Land Use Application and Permit Form.

DATES: You must submit your comments to BLM at the appropriate address below on or before April 7, 2003. BLM will not necessarily consider any comments received after the above date.

ADDRESSES: You may mail comments to: Bureau of Land Management (WO–630), Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

You may send comments via Internet to: *WOComment@blm.gov.* Please include ''ATTN: 1004–0009'' and your name and return address in your Internet message.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

All comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Alzata L. Ransom, Realty Use Group, on (202) 452–7772 (Commercial or FTS). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. Ransom.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires BLM to provide 60-day notice in the **Federal Register** concerning a collection of information contained in regulations found in 43 CFR 2920 to solicit comments on:

(a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The FLPMA of 1976 (43 U.S.C. 1732, 1740), provides for issuing land use authorizations which may include leases, permits, or easements to eligible proponents. The BLM implements the provisions of this requirement under 43 CFR 2922.2–1 which require submitting the ''Land Use Application and Permit,'' Form 2920–1. BLM uses the information collected on the application to:

(1) Identify the proposed land use and activities;

(2) Describe all facilities for which authorization is sought;

(3) Identify the location; and

(4) Determine a schedule for construction and to identify access requirements.

Since the information collected is unique to each application, no other suitable means of information collection is identified which could gather the information at a lesser burden. If the applicant fails to provide the required information, BLM must reject the application.

Based on our experience administering the activities described above, we estimate the public reporting burden of each provision for the information collection. We estimate the number of responses per year is 641 and a total annual burden of 3,140 hours. The table below summaries our estimates:

Requirement	Hours per response	No. of respondents	Burden hours
Permits	1	619	619
Leases	120	21	2,520
Easements	1	1	1
Totals	.....	641	3,140

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record.

Dated: January 31, 2003.

Michael H. Schwartz,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 03–2689 Filed 2–4–03; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–230–1020–PB–24 1A]

Extension of Approved Information Collection, OMB Control Number 1004–0001

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is requesting the Office of Management and Budget (OMB) to extend an existing approval to collect information from the general public interested in obtaining free vegetative or mineral material from public lands. BLM uses Form 5510–1, Free Use Application and Permit (Vegetative or Mineral Materials) to collect this information. This information allows BLM to properly manage and accurately track the disposal of these materials.

DATES: You must submit your comments to BLM at the address below on or before April 7, 2003. BLM will not necessarily consider any comments received after the above date.

ADDRESSES: You may mail comments to: Bureau of Land Management, (WO–630), Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

You may send comments via Internet to: *WOComment@blm.gov.* Please include ''ATTN: 1004–0001'' and your name and return address in your Internet message.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

All comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact John C. Stewart, WO–230, on (202) 452–7759 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Mr. Stewart.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires that we provide a 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the information collection burden 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.

BLM uses Form 5510–1, Free Use Application and Permit (Vegetative or Mineral Material), under 43 CFR 5510 to collect this information. The PL–167, Surface Resources Act of July 23, 1955, gives the Secretary the discretion to permit the free use of vegetative or mineral materials for use other than commercial or industrial purposes or resale. The Secretary of the Interior may also permit claimants the free use of vegetative or mineral materials.

BLM uses the information provided by the applicant(s) to:

(1) Maintain an inventory of vegetative and mineral information; and

(2) Adjudicate your rights to vegetative and mineral resources.

An applicant must file an application for a permit before removing any vegetative or mineral resources from the public lands. If BLM did not collect this information, we could not process applications.

Based upon BLM experience administering the activities described above, we process approximately 450 applications each year. The public reporting information collection burden takes 30 minutes. We estimate 450 responses per year and a total annual burden of 225 hours.

BLM will summarize all responses to this notice and include them in the request for OMB renewal of this form. All comments will become a matter of public record.

Dated: January 31, 2003.

Michael H. Schwartz,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 03–2690 Filed 2–4–03; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–310–1310–PB–24 1A]

Extension of Approved Information Collection, OMB Control Number 1004–0137

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is requesting the Office of Management and Budget (OMB) to extend an existing approval to collect certain information from oil and gas well operators concerning operations performed on each well, using the Well Completion or Recompletion Report and Log (Form 3160–4). We use the information to ensure recording of an accurate, up-to-date, and detailed description of well completion or recompletion operations and compliance with approved plans for conservation of the resources and protection of the environment.

DATES: You must submit your comments to BLM at the address below on or before April 7, 2003. BLM will not necessarily consider and comments received after the above date.

ADDRESSES: You may mail comments to: Bureau of Land Management, (WO–630), Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

You may send comments via Internet to: *WOComment@blm.gov.* Please include ''ATTN: 1004–0137'' and your name and return address in your Internet message.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

All comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Barbara Gamble, Fluid Minerals Group, on (202) 452–0338 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service on 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. Gamble.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires that we provide a 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the collection of information is necessary for the proper functioning of the agency, including whether the information has practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Mineral Leasing Act of 1920 (30 U.S.C. 181 *et seq.*), as amended; the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351–359), as amended; the various Indian leasing acts; the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*), as amended; and other environmental laws govern onshore oil and gas operations. BLM's implementing regulations are at 43 CFR part 3160. The regulation 43 CFR 3162.4–1(b) requires an oil and gas well operator to submit a Well Completion or Recompletion Report and Log (Form 3160–4) within 30 days after well completion. The information that the operator submits to us includes the type of work, surface and subsurface location, start and completion dates, producing interval, casing, date of first production, and initial well potential. The operator certifies the accuracy and completeness of the information by signature and date.

BLM uses the information for inspection and reservoir management purposes. Technical data provide means to evaluate the appropriateness of specific drilling and completion techniques. The data enable us to monitor the engineering aspects of oil and gas production. The form documents that operations were carried out under the terms and provisions of the lease in a technically and environmentally safe manner. We would lack the necessary information to monitor compliance of well activity and operations that were performed on wells if we did not collect this information.

Based on our experience administering the onshore oil and gas program, we estimate the public reporting burden for the information collected is 1 hour per response. The information collected is already maintained by respondents for their own recordkeeping purposes and must only be entered on the form. Respondents are operators of oil and gas wells. The frequency of response varies depending on the type of activity conducted at oil and gas wells. We estimate the number of responses per year is 2,200 and the total annual burden is 2,200 hours.

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record.

Dated: January 31, 2003.

Michael H. Schwartz,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 03–2691 Filed 2–4–03; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–310–1310–PB–24–1A]

Extension of Approved Information Collection, OMB Control Number 1004–0136

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is requesting the Office of Management and Budget (OMB) to extend an existing approval to collect certain information from oil and gas operators who submit an Application for Permit to Drill (Form 3160–3). We use the information to review technical and environmental factors in the process of approving proposed oil and gas drilling operations.

DATES: You must submit your comments to BLM at the address below on or before April 7, 2003. BLM will not necessarily consider any comments received after the above date.

ADDRESSES: You may mail comments to: Bureau of Land Management, (WO–630), Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

You may send comments via Internet to: *WOComment@blm.gov*. Please include ''ATTN: 1004–0136'' and your name and return address in your Internet message.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

All comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Barbara Gamble, Fluid Minerals Group, on (202) 452–0338 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. Gamble.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires that we provide a 60-day notice in the **Federal Register**

concerning a collection of information to solicit comments on:

(a) Whether the proposed collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Mineral Leasing Act of 1920 (30 U.S.C. 181 *et seq.*), as amended; the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351–359), as amended; the various Indian leasing acts; the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as amended, and other environmental laws govern onshore oil and gas operations. BLM's implementing regulations are at 43 CFR part 3160. The regulation 43 CFR 3162.3–1 requires an oil and gas well operator to submit an Application for Permit to Drill (Form 3160–3) for each well at least 30 days before any drilling operations or surface disturbances are commenced. On the form, we request respondents to provide information describing the proposed activities, including the type of well and work anticipated, the operator's identity and address, surface and bottom-hole location of the proposed action, and various kinds of technical data, depending on the type of activity proposed.

We use the data for review and approval of proposed drilling operations. The review ensures that all actions are in compliance with policies and regulations and conducted in a technically and environmentally sound manner. We use technical data about the drilling for both permit approval and subsequent on-the-ground review and inspection after actual drilling begins. We gather information on prospective production of resources so that all potential impacts can be evaluated during the approval process.

If we did not collect this information, BLM would not have proper assurance that drilling and associated activities are technically and environmentally feasible to ensure proper conservation of the resources. We also require operators to prepare certain items such as drilling plans, diagrams and maps, and contingency plans. Operators generally submit these items as attachments to Form 3160–3. We include the burden hours for such attachments under OMB control number 1004–0134, which covers all nonform requirements of 43 CFR part 3160.

Based on our experience administering the onshore oil and gas program, we estimate the public reporting burden for the information collected is 30 minutes per response. Respondents are operators of oil and gas wells. The frequency of response varies depending on the operations. We estimate the number of responses per year is 4,000 and the total annual burden is 2,000 hours.

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record.

Dated: January 31, 2003.

Michael H. Schwartz,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 03–2692 Filed 2–3–03; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–310–1310–PB–24 1A]

Extension of Approved Information Collection, OMB Control Number 1004–0135

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is requesting the Office of Management and Budget (OMB) to extend an existing approval to collect information from those persons who submit a Form 3160–5, Sundry Notices and Reports on Wells. We use the information to approve proposed operations and ensure compliance with terms and conditions of existing approvals.

DATES: You must submit your comments to BLM at the address below on or before April 7, 2003. BLM will not necessarily consider any comments received after the above date.

ADDRESSES: You may mail comments to: Bureau of Land Management, (WO–630), Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

You may send comments via Internet to: *WOComment@blm.gov*. Please include ''ATTN: 1004–0135'' and your name and return address in your Internet message.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

All comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Barbara Gamble, Fluid Minerals Group, on (202) 452–0338 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. Gamble.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires that we provide a 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the proposed collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 *et seq.*); the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et seq.*); the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359); the various Indian leasing acts; and the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and regulation 43 CFR 3162.3–2 require oil and gas operators on Federal and restricted Indian lands to submit Form 3160–5, Sundry Notices and Reports on Wells, in order to obtain authority to perform specific additional operations on a well and to report the completion of such work. In addition, 43 CFR 3162.5–1 requires the operator to exercise diligence when disposing of produced waters. We require specific data concerning modifications to existing wells or construction requirements of produced water

disposal pits. The regulation 43 CFR 3162.3–2 divides the proposed actions into three categories:

(1) Actions that require submitting the form for approval prior to beginning work and again after completion of operations;

(2) Actions that require submitting the form only after completion; and

(3) Actions that do not require reporting.

The operator or its agent must submit the data to us. The data pertains to modifying operations conducted under the terms and provisions of an oil and gas lease (a contractual agreement between a lessee and the United States) for Federal or restricted Indian lands. In the case of a produced water disposal pit approval, the data provides the technical aspects of pit design to allow for sufficient water containment, which prevents unnecessary releases of produced water into the environment.

Based on our experience managing the activities described above, we estimate the public reporting burden for the information is 25 minutes per response. Respondents are operators and operating rights owners of Federal and Indian (except Osage) oil and gas leases. The frequency of response varies depending on the type of activities conducted at oil and gas wells and on the operations. We estimate 34,000 notices filed annually and a total annual burden of 14,167 hours.

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record.

Dated: January 31, 2003.

Michael H. Schwartz,

Bureau of Land Management Information Collection Clearance Officer.

[FR Doc. 03–2693 Filed 2–4–03; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–610–02–1220–AA]

Notice of Relocation of the Bureau of Land Management's California Desert District Office in Riverside, CA

SUMMARY: Notice is hereby given that the Bureau of Land Management's (BLM) California Desert District Office is moving from its current location at 6221 Box Springs Boulevard in Riverside to a new building located at 22835 Calle San Juan De Los Lagos in Moreno Valley, California the week of February 3. The BLM will officially close the Riverside office 4:30 p.m., Thursday, February 6 and reopen at the new office on Monday, February 10.

The BLM encourages the public to arrange any work with BLM before February 6 or after February 10. The telephone numbers will remain the same and are scheduled to be back on line on Monday.

Directions to the new BLM office: from I–215 take the Alessandro exit and go east two miles, turn right on Frederick, right on Calle San Juan De Los Lagos, and the BLM office will be on the left; or from I–60 take the Pigeon Pass exit, which becomes Frederick, go south three miles, and turn right on Calle San Juan De Los Lagos. The new address is Bureau of Land Management, California Desert District Office, 22835 Calle San Juan De Los Lagos, Moreno Valley, 92553.

FOR MORE INFORMATION CONTACT: Doran Sanchez, BLM California Desert District External Affairs, at (909) 697–5220.

Dated: January 30, 2003.

Linda Hansen,

District Manager.

[FR Doc. 03–2648 Filed 2–4–03; 8:45 am]

BILLING CODE 4310–40–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of an extension of a currently approved information collection (OMB Control Number 1010–0103).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR Part 206, Subpart E—Indian Gas. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements. The ICR is titled ''30 CFR Part 206, Subpart E—Indian Gas (Form MMS–4411, Safety Net Report)''.

DATES: Submit written comments on or before March 7, 2003.

ADDRESSES: Submit written comments directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1010–0103), 725 17th Street, NW., Washington, DC 20503. Mail or hand-carry a copy of your comments to Sharron L. Gebhardt, Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 320B2, Denver, Colorado 80225. If you use an overnight courier service, our courier address is Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225. You may also email your comments to us at *mrm.comments@mms.gov.* Include the title of the information collection and the OMB Control Number in the ''Attention'' line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your e-mail, contact Ms. Gebhardt at (303) 231–3211.

FOR FURTHER INFORMATION CONTACT: Sharron L. Gebhardt, telephone (303) 231–3211, FAX (303) 231–3385, email *Sharron.Gebhardt@mms.gov.* You may also contact Sharron Gebhardt to obtain a copy at no cost of the form and regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR Part 206, Subpart E—Indian Gas (Form MMS–4411, Safety Net Report).

OMB Control Number: 1010–0103.

Bureau Form Number: Form MMS–4411.

Abstract: The Department of the Interior (DOI) is responsible for matters relevant to mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary of the Interior (Secretary) is responsible for managing the production of minerals from Federal and Indian lands and the OCS, collecting royalties from lessees who produce minerals, and distributing the funds collected in accordance with applicable laws. The Secretary has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. MMS performs the royalty management functions and assists the Secretary in carrying out DOI's Indian trust responsibility.

On August 10, 1999, MMS published in the **Federal Register** (64 FR 43506) a final rulemaking titled ''Amendments to Gas Valuation Regulations for Indian Leases,'' with an effective date of January 1, 2000. These regulations are codified at 30 CFR Part 206, Subpart E. Form MMS–4411, Safety Net Report, governs the valuation for royalty

purposes of natural gas produced from Indian leases. In 30 CFR 206.172(e), MMS requires that lessees submit Form MMS–4411 when gas production from an Indian lease is sold beyond the first index pricing point. The gas regulations apply to all gas production from Indian (tribal or allotted) oil and gas leases (except leases on the Osage Indian Reservation).

Form MMS–4411 ensures Indian mineral lessors receive the maximum revenues from mineral resources on their land consistent with the Secretary's trust responsibility and lease terms. It permits lessees to comply with the regulatory requirements at the time that royalties are due.

The safety net calculation establishes the minimum value, for royalty purposes, of natural gas production from Indian leases. This reporting requirement will assist the Indian lessor in receiving all the royalties that are due and aid MMS in its compliance efforts. The safety net price is calculated using prices received for gas sold downstream of the first index pricing point. It will include only the lessee's or the lessee's affiliate's arm's-length sales price, and it will not require detailed calculations for the costs of transportation. By June 30 following any calendar year, the lessee calculates a safety net price for each month of the previous calendar year. Lessees must calculate the safety net prices for each index zone where the lessee has an Indian lease and the gas is sold beyond the first index pricing point. The safety net price will capture the significantly higher values for sales occurring beyond the index point. The lessee will submit its safety net prices to MMS annually (by June 30) using Form MMS–4411.

We are also revising this ICR to include reporting requirements that were inadvertently overlooked when the final rule was published. See the chart below for these requirements and associated burden hours. These reporting requirements are rare and unusual circumstances where the standard valuation procedures set out in the Indian gas valuation rule are not appropriate.

MMS is requesting OMB's approval to continue to collect this information. Not collecting this information would limit the Secretary's ability to discharge his/her duties and may also result in loss of royalty payments to the Indian lessor due to royalties not being collected on prices received under higher priced long-term sales contracts. Proprietary information submitted is protected, and there are no questions of a sensitive nature included in this information collection.

We have also changed the title of this ICR from ''Safety Net Report'' to ''30 CFR part 206, subpart E—Indian Gas (Form MMS–4411, Safety Net Report),'' to clarify the regulatory language we are covering under 30 CFR Part 206.

Frequency: Annually.

Estimated Number and Description of Respondents: 29 Indian lessees/lessors.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 1,012 hours.

The following chart details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. Therefore, we consider these to be usual and customary and took that into account in estimating the burden.

30 CFR section	Reporting requirement	Burden hours per response	Annual number of responses	Annual burden hours
206.172(e)(6)(i) and (iii) ...	You must report the safety net price for each index zone to MMS on Form MMS–4411, Safety Net Report, no later than June 30 following each calendar year * * * MMS may order you to amend your safety net price within one year from the date your Form MMS–4411 is due or is filed, whichever is later.	25	24	600
206.172(f)(1)(ii), (2), and (3).	An Indian tribe may ask MMS to exclude some or all of its leases from valuation under this section * * * If an Indian tribe requests exclusion from an index zone for less than all of its leases, MMS will approve the request only if the excluded leases may be segregated into one or more groups based on separate fields within the reservation * * * An Indian tribe may ask MMS to terminate exclusion of its leases from valuation under this section * * * The Indian tribe's request to MMS under either paragraph (f)(1) or (2) of this section must be in the form of a tribal resolution.	40	1	40
206.174(f)	You may ask MMS for guidance in determining value. You may propose a valuation method to MMS. Submit all available data related to your proposal and any additional information MMS deems necessary.	40	1	40
206.175(d)(4)	You may request MMS approval of other methods for determining the quantity of residue gas and gas plant products allocable to each lease.	20	1	20
	Transportation Allowances			
206.178(a)(1)(i)	You are required to submit to MMS a copy of your arm's-length transportation contract(s) and all subsequent amendments to the contract(s) within 2 months of the date MMS receives your report which claims the allowance on the Form MMS–2014.	8	2	16
206.178(a)(2)(i) and (ii)	* * * you cannot take an allowance for the costs of transporting lease production that is not royalty bearing without MMS approval, or without lessor approval on tribal leases. * * * As an alternative to paragraph (a)(2)(i), * * * you may propose to MMS a cost allocation method based on the values of the products transported.	20	1	20

30 CFR section	Reporting requirement	Burden hours per response	Annual number of responses	Annual burden hours
206.178(a)(3)(i) and (ii)	If your arm's-length transportation contract includes both gaseous and liquid products and the transportation costs attributable to each cannot be determined from the contract, you must propose an allocation procedure to MMS. You are required to submit all relevant data to support your allocation proposal.	40	1	40
206.178(b)(2)(iv)	* * * you may not later elect to change to the other alternative without MMS approval.	20	1	20
206.178(b)(2)(iv)(A)	Once you make an election * * * you may not change methods without MMS approval.	20	1	20
206.178(b)(3)(i)	Except as provided in this paragraph, you may not take an allowance for transporting a product that is not royalty bearing without MMS approval.	40	1	40
206.178(b)(3)(ii)	As an alternative to the requirements of paragraph (b)(3)(i) of this section, you may propose to MMS a cost allocation method based on the values of the products transported.	*See* 206.178(a)(2)(ii).		
206.178(b)(5)	If you transport both gaseous and liquid products through the same transportation system, you must propose a cost allocation procedure to MMS. . . . You are required to submit all relevant data to support your proposal.	*See* 206.178(a)(3)(i) & (ii).		
Processing Allowances				
206.180(a)(1)(i)	You are required to submit to MMS a copy of your arm's-length processing contract(s) and all subsequent amendments to the contract(s) within 2 months of the date MMS receives your first report that deducts the allowance on the Form MMS–2014.	8	2	16
206.180(a)(3)	If your arm's-length processing contract includes more than one gas plant product and the processing costs attributable to each product cannot be determined from the contract, you must propose an allocation procedure to MMS * * * You are required to submit all relevant data to support your proposal.	40	1	40
206.180(b)(2)(iv)	After you elect to use either method [depreciation with a return on undepreciable capital investment or a return on depreciable capital investment] for a processing plant, you may not later elect to change to the other alternative without MMS approval.	20	1	20
206.180(b)(2)(iv)(A)	Once you make an election, you may not change [depreciation or unit of production] methods without MMS approval.	20	1	20
206.180(b)(3)	Your processing allowance under this paragraph (b) must be determined based upon a calendar year or other period if you and MMS agree to an alternative.	20	1	20
206.181(c)	A proposed comparable processing fee submitted to either the Tribe and MMS (for tribal leases) or MMS (for allotted leases) with your supporting documentation submitted to MMS. If MMS does not take action on your proposal within 120 days, the proposal will be deemed to be denied and subject to appeal to the MMS Director under 30 CFR part 290.	40	1	40
Total	.....	.....	41	1,012

Estimated Annual Reporting and Recordkeeping ''Non-hour Cost'' Burden: We have identified no ''non-hour'' cost burdens.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that 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.

Comments: Section 3506(c)(2)(A) of the PRA requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we published a **Federal Register** Notice (67 FR 66658) on November 1, 2002, announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received no comments in response to the notice.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by March 7, 2003.

Public Comment Policy. We will post all comments in response to this notice on our Web site at *http://www.mrm.mms.gov/Laws_R_D/InfoColl/InfoColCom.htm.* We will also make copies of the comments available for public review, including names and addresses of respondents, during regular business hours at our offices in Lakewood, Colorado. Individual respondents may request that we withhold their home address from the public record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you request that we withhold your name and/or address, 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 in their entirety.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: January 28, 2003.

Lucy Querques Denett,

Associate Director for Minerals Revenue Management.

[FR Doc. 03–2646 Filed 2–4–03; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Cuyahoga Valley National Park EIS Availability

AGENCY: National Park Service.

ACTION: Notice of availability of the draft rural landscape management program Environmental Impact Statement for Cuyahoga Valley National Park, Ohio.

SUMMARY: Pursuant to section 102(2) of the National Environmental Policy Act of 1969, the National Park Service (NPS) announces the availability of the draft rural landscape management program Environmental Impact Statement (DEIS) for Cuyahoga Valley National Park, Ohio (hereafter ''the Park'').

DATES: There will be a 60-day public review period for comments on this document. Comments on the DEIS must be received no later than 60-days after the Environmental Protection Agency publishes its notice of availability in the **Federal Register**. Public open houses for information about, or to make comment on, the DEIS will be announced in the local media and the Park's web site when they are scheduled. Information about meeting time and place will be available by contacting the Park's communications center at 440–526–5256 or visiting the Park's web site at: *http://www.nps.gov/cuva/management/rmprojects/ruraleis/.*

ADDRESSES: Copies of the DEIS are available by request by writing to Superintendent, Cuyahoga Valley National Park, 15610 Vaughn Road, Brecksville, OH 44141, by phone 440–546–5903, or by e-mail *cuva_superintendent@nps.gov.* A downloadable on-line version of the document is available at: *http://www.nps.gov/cuva/management/rmprojects/ruraleis/.*

FOR FURTHER INFORMATION CONTACT: Superintendent, Cuyahoga Valley National Park, 15610 Vaughn Road, Brecksville, OH 44141, or by phone 440–546–5903.

SUPPLEMENTARY INFORMATION: The preservation of the rural landscape is central to the Park's legislative mandate. The law, that established the Park, mandates the ''preservation of the historic, scenic, natural, and recreational values of the Cuyahoga Valley'' (Public Law 93–555, 1974). One component of the historic and scenic values of the Park is the rural landscape—lands and structures modified by humans for agricultural use. Throughout the Park's history, efforts to preserve the rural landscape have been sporadic; there has never been a comprehensive program to manage the rural landscape. As a result, many of the Park's rural landscape resources have been lost. Therefore, the Park is proposing to better protect and revitalize this cultural resource by implementing an integrated rural landscape management program, with the goal of more effectively and systematically preserving and protecting the rural landscape resources in the Park. The DEIS describes and analyzes the environmental impacts of alternatives and their associated impacts. In the Park's preferred alternative (alternative 2—Countryside Initiative), the rural landscape would be managed largely by issuing long-term leases to private individuals for the purpose of conducting sustainable agricultural activities. Two additional action alternatives and a no action alternative are evaluated in this EIS.

Persons wishing to comment may do so by any one of several methods. They may attend the open houses noted above. They may mail comments to Superintendent, Cuyahoga Valley National Park, 15610 Vaughn Road, Brecksville, OH 44141. They also may comment via e-mail to *cuav_superintendent@nps.gov* (include name and return address in the e-mail message). Finally, they may hand-deliver comments to Park Headquarters, Cuyahoga Valley National Park, 15610 Vaughn Road, Brecksville, OH 44141.

The NPS' practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances, in which we would withhold from the record a respondent's identity, as 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 in their entirety.

The responsible official is Mr. William Schenk, Midwest Regional Director.

Dated: December 17, 2002.

William W. Schenk,

Regional Director, Midwest Region.

[FR Doc. 03–2716 Filed 2–4–03; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plan for San Juan Island National Historical Park, San Juan County, WA; Notice of Intent To Prepare an Environmental Impact Statement

Summary: In accordance with § 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4321 *et. seq.*), the National Park Service is undertaking a conservation planning and environmental impact analysis process for a new General Management Plan for San Juan Island National

Historical Park. The purpose of the scoping process is to elicit early public comment regarding the full spectrum of public issues and concerns, including a suitable range of alternatives, appropriate boundaries, and the nature and extent of potential environmental impacts and appropriate mitigation strategies which should be addressed in preparing the draft Environmental Impact Statement (EIS).

Background: A general management plan (GMP) sets forth the basic management philosophy for a unit of the National Park System and provides the strategies for addressing issues and achieving identified management objectives for that unit. In the forthcoming EIS\GMP effort and its integral public review process, the National Park Service (NPS) will formulate a range of alternatives to address distinct management strategies for the park, including resource protection and visitor use. The EIS will identify and evaluate potential environmental impacts. The GMP will guide the management of natural and cultural resources and visitor use of those resources, serving as blueprint for park managers over the next 10–15 years. Development concept plans for selected facilities may be included with the GMP.

Scoping and Comment Process: Scoping activities involving a wide range of park stakeholders is of critical importance for early identification of issues and concerns which should be addressed in the forthcoming EIS\GMP. Representatives of Federal, State, and local agencies, American Indian tribes, private organizations and individuals from the general public who may be interested in or affected by the proposed GMP are encouraged to participate in the scoping process by responding with written comments, or by providing any relevant information.

At this time, major issues anticipated to be addressed in the San Juan Island National Historical Park EIS\GMP include: (1) Substantial growth pressures on cultural and natural resources of the park; (2) future protection of water quality and quantity; (3) natural erosion of portions of the shoreline; (4) proliferation of exotic plant and animal species; and (4) lack of adequate administrative and visitor facilities and services in terms of location and scale. Comments on these or other concerns deemed relevant to the conservation planning and environmental impact analysis process, as well as suggested management alternatives suitable for addressing these factors, are encouraged and are particularly helpful as this early phase in the overall EIS\GMP process.

Several public scoping meetings are planned for spring 2003. Confirmed dates, times, and locations will be timely announced via local and regional press releases, in a park scoping newsletter, and on the park website *http://www.nps.gov/sajh/gmp_sajh.html*.

All interested individuals, organizations, and agencies wishing to provide comments, suggestions, or relevant information (or those wishing to be included in the project mailing list) should contact the Superintendent at San Juan Island National Historical Park, P.O. Box 429, Friday Harbor, Washington 98250, or via telephone at (360) 378–2240. All written comments must be postmarked not later than June 1, 2003.

If individuals submitting comments request that their name or/and address be withheld from public disclosure, it will be honored to the extent allowable by law. Such requests must be stated prominently in the beginning of the comments. There also may be circumstances wherein the NPS will withhold a respondent's identity as allowable by law. As always, NPS will make available to public inspection all submissions from organizations or businesses and from persons identifying themselves as representatives or officials of organizations and businesses; and, anonymous comments may not be considered.

Decision Process: The draft EIS\GMP is expected to be available for public review by summer 2004, with the final version of the document completed by winter 2005. As a delegated EIS, the official responsible for approval of the EIS\GMP is the Regional Director, Pacific West Region, National Park Service. Subsequently, the official responsible for implementation of the approved GMP will be the Superintendent, San Juan Island National Historical Park.

Dated: December 18, 2002.

Jonathan B. Jarvis,

Regional Director, Pacific West Region.

[FR Doc. 03–2717 Filed 2–4–03; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Aniakachak National Monument Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Announcement of Subsistence Resource Commission meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Aniakchak National Monument Park Subsistence Resource Commission will be held at Chignik Lake, Alaska. The purpose of the meeting will be to continue work on National Park Service subsistence hunting program recommendations including other related subsistence management issues. The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed.

The Subsistence Resource Commissions are authorized under title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, and operation in accordance with the provisions of the Federal Advisory Committee Act.

DATES: The meeting will be on February 19, 2003, 9 a.m. to 4 p.m. at the Subsistence Hall in Chignik Lake, Alaska. In accordance with 41 CFR 102–3.150, we may provide less than 15 days notice in the **Federal Register** to convene the Commission prior to the February 27, 2003, Bristol Bay Regional Council meeting.

FOR FURTHER INFORMATION CONTACT: Mary McBurney, Subsistence Manager at (907) 257–2633.

SUPPLEMENTARY INFORMATION: Notice of this meeting will be published in local newspapers and announced on local radio stations prior to the meeting dates. Locations and dates may need to be changed based on weather or local circumstances.

The following agenda items will be discussed:

1. Call to order (SRC Chair).
2. Roll call and confirmation of quorum.
3. SRC Chair and Superintendent's welcome and introductions.
4. Review Commission purpose and status of membership.
5. Review and adopt agenda.
6. Review and adopt minutes from last meeting.
7. Superintendent's report.
8. Review SRC Chair's workshop notes.
9. Update—Review Federal Subsistence Board Actions on Wildlife Proposals.
10. Update—Review Federal Subsistence Board Actions on Fisheries Proposals.
11. Develop comments for Federal Subsistence Board Proposals.
12. Review Status of Subsistence Hunting Program Recommendations.

13. Public and agency comments.
14. Set time and place of next SRC meeting.
15. Adjournment.

Draft minutes of the meeting will be available for public inspection approximately six weeks after the meeting from: Superintendent, Aniakchak National Monument and Preserve, P.O. Box 4230, University Drive #311, Anchorage, AK 99508. Telephone (907) 271–3751.

Dated: January 9, 2003.

Robert L. Arnberger,

Regional Director, Alaska.

[FR Doc. 03–2714 Filed 2–4–03; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Announcement of Denali National Park Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Announcement of Denali National Park Subsistence Resource Commission meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Denali National Park Subsistence Resource Commission will be held February 21, 2003, at Healy, Alaska. The purpose of the meeting will be to continue work on National Park Service subsistence hunting program recommendations including other related subsistence management issues. The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed.

The Subsistence Resource Commission is authorized under title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, and operates in accordance with the provisions of the Federal Advisory Committee Act.

DATES: The meeting will on February 21, 2003, 9 a.m. to 5 p.m., at the Nord Haven Motel in Healy, Alaska. In accordance with 41 CFR 102–3.150, we may provide less than 15 days notice in the **Federal Register** to convene the Commission prior to the March 4, 2003, Southcentral Federal Subsistence Regional Council meeting.

FOR FURTHER INFORMATION CONTACT: Hollis Twitchell, Subsistence and Cultural Resources Manager at (907) 683–9544 or (907) 455–0673.

SUPPLEMENTARY INFORMATION: Notice of this meeting will be published in local newspapers and announced on local radio stations prior to the meeting dates. Locations and dates may need to be changed based on weather or local circumstances.

The following agenda items will be discussed:

1. Call to order (SRC Chair).
2. Roll call and confirmation of quorum.
3. SRC Chair and Superintendent's welcome and introductions.
4. Review and adopt minutes from last meeting.
5. Additions and corrections to draft agenda.
6. Public and other agency comments.
7. Denali Backcountry Management Plan.
8. Cantwell Resident Zone Hunting Plan Recommendation.
9. North Access Studies.
10. Federal Subsistence Wildlife Proposals for 2003.
11. Cultural and Subsistence Interpretation.
12. Bear and Wolf management issues in Wildlife Units 13 and 16.
13. Customary Trade Proposed Rule.
14. NPS reports and updates.
15. Subsistence Community Use Profiles and Traditional Knowledge studies.
16. Federal Subsistence Board actions 2002.
17. Alaska Board of Game actions 2002.
18. Closing public and agency comments.
19. Set time and place of next Denali National Park SRC meeting.
20. Adjournment.

Draft minutes of the meeting will be available for public inspection approximately six weeks after the meeting from: Superintendent, Denali National Park and Preserve, P.O. Box 9, Denali Park, AK 99755.

Robert L. Arnberger,

Regional Director, Alaska.

[FR Doc. 03–2715 Filed 2–4–03; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Lake Clark National Park Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Announcement of Lake Clark National Park Subsistence Resource Commission meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Lake Clark National Park Subsistence Resource Commission will be held February 24, 2003 at Port Alsworth, Alaska. The purpose of the meeting will be to continue work on National Park Service subsistence hunting program recommendations including other related subsistence management issues. The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed.

The Subsistence Resource Commission is authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, and operates in accordance with the provisions of the Federal Advisory Committee Act.

DATES: The meeting will on February 24, 2003, 10 a.m. to 4 p.m., at the National Park Service hangar in Port Alsworth, Alaska. In accordance with 41 CFR 102–3.150, we may provide less than 15 days notice in the **Federal Register** to convene the Commission prior to the February 27, 2003, Bristol Bay Regional Council meeting.

FOR FURTHER INFORMATION CONTACT: Mary McBurney, Subsistence Manager at (907) 257–2633.

SUPPLEMENTARY INFORMATION: Notice of this meeting will be published in local newspapers and announced on local radio stations prior to the meeting dates. Locations and dates may need to be changed based on weather or local circumstances.

The following agenda items will be discussed:

1. Call to order (SRC Chair).
2. Roll Call and Confirmation of Quorum.
3. SRC Chair and Superintendent's Welcome and Introductions.
4. Review Commission Purpose and Status of Membership.
5. Review and Adopt Agenda.
6. Review and adopt minutes from last meeting.
7. Superintendent's Report.
8. Review SRC Chairs Workshop Notes
9. Update—Review Federal Subsistence Board Actions on Wildlife Proposals.
10. Update—Review Federal Subsistence Board Actions on Fisheries Proposals.
11. Develop Subsistence Hunting Program Recommendations
12. Public and agency comments.
13. Set time and place of next SRC meeting.
14. Adjournment.

Draft minutes of the meeting will be available for public inspection approximately six weeks after the

meeting from: Superintendent, Lake Clark National Park and Preserve, P.O. Box 4230, University Drive #311, Anchorage, AK 99508.

Robert L. Arnberger,

Regional Director, Alaska.

[FR Doc. 03–2719 Filed 2–4–03; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Landmarks Committee; Meeting

AGENCY: National Park Service, U.S. Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the National Landmarks Committee of the National Park System Advisory Board will be held beginning at 9 a.m. on the following date and at the following location.

DATES: April 8, 2003.

LOCATION: The Lyceum: Alexandria's History Museum, 201 South Washington Street, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT: Patricia Henry, National Historic Landmarks Survey, National Register, History, and Education, National Park Service; 1849 C Street, NW (2280), Washington, DC 20240. Telephone (202) 354–2216.

SUPPLEMENTARY INFORMATION: The purpose of the meeting of the National Landmarks Committee of the National Park System Advisory Board is to evaluate the nomination of a historic property in order to advise the full National Park System Advisory Board of the qualifications of the property being proposed for National Historic Landmark (NHL) designation, and to recommend to the National Park System Advisory Board if the Landmarks Committee finds that this property meets the criteria for designation as a National Historic Landmark. The members of the National Landmarks Committee are:

Dr. Janet Snyder Matthews, Chair
Dr. Allyson Brooks
Dr. Ian W. Brown
Mr. S. Allen Chambers, Jr.
Dr. Elizabeth Clark-Lewis
Dr. Bernard L. Herman
Professor E.L. Roy Hunt
Ms. Paula J. Johnson
Mr. Jerry L. Rogers
Dr. Richard Guy Wilson

From 9 to 10:30 a.m. the meeting will include a presentation and discussion on the national historic significance and the historic integrity of one property being nominated for National Historic Landmark designation. In addition, one National Historic Trail Study will also be considered at that time. After that time the committee will engage in a general discussion on the procedures of the National Historic Landmarks Program. The meeting will be open to the public. Any member of the public may file for consideration by the committee written comments concerning the one National Historic Landmarks nomination and matters to be discussed pursuant to 36 CFR Part 65, or the trail study.

Comments should be submitted to Carol D. Shull, Chief, National Historic Landmarks Survey and Keeper of the National Register of Historic Places; National Register, History, and Education; National Park Service; 1849 C Street, NW (2280); Washington, DC 20240.

The committee will consider the following nomination:

Florida

Fort King

The committee will also consider the recommendations presented in the Washington-Rochambeau Revolutionary War Route National Historic Trail Study, prepared under the auspices of Public Law 106–473.

Dated: January 29, 2003.

Carol D. Shull,

Chief, National Historic Landmarks Survey and Keeper of the National Register of Historic Places; National Park Service, Washington, DC.

[FR Doc. 03–2661 Filed 2–4–03; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Wrangell-St. Elias National Park Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Announcement of Wrangell-St. Elias National Park Subsistence Resource Commission (SRC) meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Wrangell-St. Elias National Park Subsistence Resource Commissions will be held at Tazlina, Alaska. The purpose of the meeting will be to continue work on currently authorized and proposed National Park Service subsistence hunting program recommendations including other related subsistence management issues. The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed.

The Subsistence Resource Commission is authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, and operates in accordance with the provisions of the Federal Advisory Committee Act.

DATES: The meeting dates are:

1. February 19, 2003, 9 a.m. to 5 p.m., Tazlina Community Hall, Tazlina, Alaska.

2. February 20, 2003, 9 a.m. to 5 p.m., Tazlina Community Hall, Tazlina, Alaska.

In accordance with 41 CFR 102–3.150, we may provide less than 15 days notice in the **Federal Register** to convene the Commission prior to the March 4, 2003, Southcentral Regional Council meeting.

FOR FURTHER INFORMATION CONTACT: Gary Candelaria or Barbara Cellarius, Subsistence, at Wrangell-St. Elias National Park and Preserve, P.O. Box 439, Copper Center, AK 99573, telephone (907) 822–5234.

SUPPLEMENTARY INFORMATION: Notice of this meeting will be published in local newspapers and announced on local radio stations prior to the meeting dates. Locations and dates may need to be changed based on weather or local circumstances.

The agenda for the meeting is as follows:

1. Call to order (SRC Chair).
2. SRC Roll Call and Confirmation of Quorum.
3. SRC Chair and Superintendent's Welcome and Introductions.
4. Review and Adopt Agenda.
5. Review and adopt minutes September 25–26, 2002 meeting.
6. Review Commission Purpose.
7. Status of Membership.
8. Superintendent's Report.
9. Wrangell-St. Elias NP&P Staff Report.
10. Review new proposals to change Wildlife Regulations.
11. Public and Agency Comments.
12. Work Session (comment on issues, develop new recommendations, prepare letters).
13. Set time and place of next SRC meeting.
14. Adjournment.

Draft minutes of the meeting will be available for public inspection approximately six weeks after the meeting from the Superintendent,

Wrangell-St. Elias National Park, at the above address.

Robert L. Arnberger,

Regional Director, Alaska.

[FR Doc. 03–2718 Filed 2–4–03; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–421–2]

Certain Steel Wire Garment Hangers From China

Determination

On the basis of information developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 421(b)(1) of the Trade Act of 1974,[1] that certain steel wire garment hangers [2] from the People's Republic of China are being imported into the United States in such increased quantities or under such conditions as to cause market disruption to the domestic producers of like or directly competitive products.

Background

Following receipt of a petition filed on November 27, 2002, on behalf of CHC Industries, Inc.; M&B Metal Products Co., Inc.; and United Wire Hanger Corp., the Commission instituted investigation No. TA–421–2, Certain Steel Wire Garment Hangers From China, under section 421 of the Trade Act of 1974 to determine whether certain steel wire garment hangers from China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products.

Notice of the institution of the Commission's investigation and of the scheduling of a public hearing to be held in connection therewith was given by posting a copy of the notice on the Commission's website (*http://www.usitc.gov*) and by publishing the notice in the **Federal Register** of December 6, 2002 (67 FR 72700). The hearing was held on January 9, 2003, in Washington, DC; all persons who requested the opportunity were permitted to appear in person or by counsel.

By order of the Commission.

Issued: January 31, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–2778 Filed 2–4–03; 8:45 am]

BILLING CODE 7020–02–P

[1] 19 U.S.C. 2451(b)(1).

[2] For purposes of this investigation, certain steel wire garment hangers consist of garment hangers, fabricated from steel wire in gauges from 9 to 17, inclusive (3.77 to 1.37 millimeters, inclusive), whether or not galvanized or painted, whether or not coated with latex or epoxy or other similar gripping materials, and whether or not fashioned with paper covers or capes (with or without printing) and/or nonslip features such as saddles, tubes, or struts. After fabrication, such hangers are in lengths from 7 to 20 inches, inclusive (177.8 to 508 millimeters, inclusive), and the hanger's length or bottom bar is composed of steel wire and/or saddles, tubes or struts. The product may also be identified by its commercial designation, referring to the shape and/or style of the hanger or the garment for which it is intended, including but not limited to shirt, suit, strut, and caped hangers. Specifically excluded are wooden, plastic, aluminum, and other garment hangers that are covered under separate subheadings of the HTS. The products subject to this investigation are classified in subheading 7326.20.00 of the HTS and reported under statistical reporting number 7326.20.0020. Although the HTS subheading is provided for convenience and Customs purposes, the written description of the merchandise is dispositive.

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities; Proposed Collection, Comments Requested

ACTION: 60-Day Emergency Notice of Information Collection Under Review: Revision of a Currently Approved Collection, Application for Explosives License or Permit.

The Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by February 18, 2003. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer (202) 395–6466, Washington, DC 20503.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to US Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives ATTN: Gail Davis, Chief, Public Safety Branch, 800 K Street, NW., Suite 710, Washington, DC 20001.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected, and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* Revision of a currently approved collection.

(2) *The title of the form/collection:* Application For Explosives License or Permit.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number: ATF F5400.13/5400.16.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business, Individuals Abstract: The purpose of this collection is to enable ATF to ensure that persons seeking to obtain a license or permit under 18 USC, Chapter 40, and responsible person of such companies are not prohibited from shipping, transporting, receiving, or possessiong explosives.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* There are approximately 10,000 respondents who will each require an average of 1 hour and 30 minutes to respond.

(6) *An estimate of the total public burden (in hours) associated with the colection:* The total annual public burden hours for this information collection is estimated to be 15,000 hours.

In additional information is required contact: Robert B. Briggs, Department Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, 601 D Street NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: January 29, 2003.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 03–2497 Filed 2–04–03; 8:45 am]

BILLING CODE 4410–FB–M

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Emergency Notice of Information Collection Under Review: Revision of a Currently Approved Collection, Employee Possessor Questionnaire.

The Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by February 18, 2003. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer (202) 395–6466, Washington, DC 20503.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosive ATTN: Gail Davis, Chief, Public Safety Branch, 800 K Street, NW., Suite 710, Washington, DC 20001.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Overview of this information:

(1) *Type of information collection:* Revision of a currently approved collection.

(2) *The title of the form/collection:* Employee Possessor Questionnaire.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number: ATF F5400.28 Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals. Other: Business. Abstract: Each employee possessor in the explosives business or operations is required to ship, transport, receive, or possess (actual or constructive), explosive materials must submit this form. ATF F5400.28 will determine the eligibility of the employee possessor to possess explosives.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* There are approximately 10,000 respondents who will each require an average of 20 minutes to respond.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual public burden hours for this information collection is estimated to be 3,334 hours.

If additional information is required contact: Robert B. Briggs, Department Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, 601 D Street NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: January 29, 2003.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 03–2498 Filed 2–4–03; 8:45 am]

BILLING CODE 4410–FB–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Notice to Student or Exchange Visitor; Form I–515.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on November 21, 2002 at 67 FR 70242, allowing for a 60-day public comment period. No public comment was received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until March 7, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725—17th Street, NW., Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of a currently approved information collection.

(2) *Title of the Form/Collection:* Notice to Student or Exchange Visitor.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–515, Immigration Services Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract*: Primary: Individuals or Households. This form will be used by the INS to notify students or exchange visitors admitted to the United States as nonimmigrant that they have been admitted without required forms and that they have 30 days to present the required forms and themselves to the appropriate office for correct processing.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond*: 3,000 responses at 5 minutes (.083 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection*: 249 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Ste. 1600, Washington, DC 20530.

Dated: January 30, 2003.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 03–2686 Filed 2–4–03; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Visa Waiver Program Passenger Arrival and Departure Data (File No. OMB–32).

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The INS published an interim rule containing the proposed information collection in the **Federal Register** on October 11, 2002 at 67 FR 63246. The interim rule also solicited public review and comments on the information collection for a period of 60 days. The INS has not received any comments on the proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments to satisfy the requirements of the Paperwork Reduction Act and to extend the use of this information collection. Comments are encouraged and will be accepted until March 7, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725—17th Street, NW., Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimated of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a previously approved information collection.

(2) *Title of the Form/Collection:* Visa Waiver program passenger Arrival and Departure Data.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No Agency Form Number (File No. OMB–32); Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Section 217(h) of the INA requires an automated entry and exit control system by specifying those passenger data elements that must be electronically transmitted to the INS by carriers seeking to transport Visa Waiver program passengers into and out of the U.S. on or after October 1, 2002.

(5) *An estimate of the total number of respondents and the amounts of time estimated for an average respondent to respond:* 600 responses at 5 minutes (.083 hours) per response. Frequency of response is 365.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 36,500 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building 601 D Street, NW., Ste. 1600, Washington, DC 20530.

Dated: January 30, 2003.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 03–2687 Filed 2–4–03; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: 30-Day Notice of Information Collection Under Review; Application for Replacement Naturalization/ Citizenship Document; Form N–565.

The Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published by the Immigration and Naturalization Service (INS) in the **Federal Register** on September 27, 2002 at 67 FR 61153, allowing for a 60-day public review and comment period. The INS received no public comments. The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted for thirty days until March 7, 2003. This process is conducted in accordance with 5 CFR Part 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725—17th Street, NW., Room 10235, Washington, DC 20530. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a previously approved collection.

(2) *Title of the Form/Collection:* Application for Replacement Naturalization/Citizenship Document.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–565. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This form is used by the INS to determine the applicant's eligibility for a replacement of a Declaration of Intention, Naturalization Certificate, Certificate of Citizenship or Repatriation Certificate that was lost, mutilated or destroyed, or if the applicant's name was changed by marriage or by court order after issuance of original document. This form may also be used to apply for special certificate of naturalization as a U.S. citizen to be recognized by a foreign country.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 22,567 responses at 55 minutes (0.916) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 20,671 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4304, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If addition information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Suite 1600, Washington, DC 20530.

Dated: January 30, 2003.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 03–2688 Filed 2–4–03; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

January 27, 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 this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (202) 693–4129 or e-mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for OSHA, Office of Management and Budget, Room 10235, Washington, DC 20503, ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration (OSHA).

Type of Review: Extension of a currently approved collection.

Title: OSHA Data Initiative (ODI).

OMB Number: 1218–0209.

Affected Public: Business or other for-profit; Farms; and State, Local, or Tribal Government.

Frequency: Annually.

Type of Response: Reporting.

Number of Respondents: 96,675.

Number of Annual Responses: 96,675.

Estimated Time Per Response: 10 minutes.

Total Burden Hours: 15,468.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: In accordance with 29 CFR 1904.41, OSHA is proposing to continue collecting occupational injury and illness data. These data allow OSHA to calculate occupational injury and illness rates and to focus its efforts on individual workplaces with ongoing series safety and health problems. This data collection initiative is critical to OSHA's outreach and enforcement efforts and the data requirements tied to the Government Performance and Results Act.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 03–2721 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

January 28, 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 this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or e-mail *King-Darrin@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical-utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Office of the Assistant Secretary for Administration and Management (OASAM).

Type of Review: New collection.

Title: Survey on Ensuring Equal Opportunity for Applicants.

OMB Number: 1225–0NEW.

Affected Public: Not-for-profit-institutions.

Frequency: On occasion.

Type of Response: Reporting.

Number of Respondents: 1,000.

Number of Annual Responses: 1,000.

Estimated Time Per Response: 5 minutes.

Total Burden Hours: 80.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: This data collection is necessary to fulfill the mandate of Executive Orders 13198 and 13199 dated January 29, 2001. These Executive Orders require the removal of barriers to the full participation of faith-based and community organizations in federal social service programs. This data collection will provide the data to determine the level of faith-based and community participation in the DOL grant programs. The data collected on this form is identical to that collected on OMB number 1890–0014 which has been approved by the Office of Management and Budget for use government-wide.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 03–2722 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

January 30, 2003.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13), 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King (202 693–4129 or by e-mail to *King-Darrin@dol.gov*).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Office, Office of Management and Budget, room 10235, Washington, DC 20503 (202 395–7316), within 30 days from 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, clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Process Safety Management of Highly Hazardous Chemicals (PSM) (29 CFR 1910.119).

OMB Number: 1218–0200.

Frequency: Annually (on occasion).

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 38,717.

Estimated Time Per respondent: Varies from five minutes (.08) to generate, maintain and disclose training documentation to 2,454.4 hours to establish and implement a management of change program.

Total Burden Hours: 50,980,689.

Total annualized capital/startup cost: -0-.

Total annual cost (operating/maintaining systems or purchasing services): -0-.

Description: The collection of information in the standard is necessary for implementation of the requirements of the standards. The information is used by employers to assure that processes using highly hazardous chemical with the potential of a castrophic release are operated as safely as possible. The employer must thoroughly consider all facets of a process, as well as the involvement of employees in that process. Processes are analyzed by employers so that they identify and control problems that could lead to a major release, fire or explosion. The failure of employers to collect the information will significantly impact OSHA's effort to control and reduce injuries and fatalities in workplaces, which have the potential for highly hazardous chemical catastrophes.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 03–2723 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

January 27, 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 this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on 202–693–4129 or e-mail: *King-Darrin@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 (202–395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: Revision of a currently approved collection.

Title: Quarterly Determinations, Allowance Activities, and Employability Services Under the Trade Act; Training Waivers Issued and Revoked.

OMB Number: 1205–0016.

Affected Public: State, Local, or Tribal Government.

Type of Response: Reporting.

Number of Respondents: 52.

Frequency: Quarterly.

Requirement	Annual responses	Average response time (hours)	Annual burden hours
ETA 563	17,100	.13	2,223
ETA 9027	180	.17	31
Total	17,280		2,254

Total Annualized Capital/Startup Costs: $100,000.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Quarterly data on Trade Adjustment Assistance activity is needed for timely program evaluation, for competent administration, and for providing legally mandated reports to Congress. Section 231(c) of the Trade Act of 1974 as amended by the Trade Adjustment Assistance Reform Act of 2002, requires the states to submit reports to the Secretary on training waivers issued and revoked.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 03–2724 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6664]

State of Alaska Commercial Fisheries Entry Commission Permit No. 60068N, Dillingham, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended

(19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 60068N, Dillingham, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2725 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6665]

State of Alaska Commercial Fisheries Entry Commission Permit No. 60688L, Dillingham, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 60688L, Dillingham, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2726 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6666]

State of Alaska Commercial Fisheries Entry Commission Permit No. 67569Q, Dillingham, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 67569Q, Dillingham, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2727 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6668]

State of Alaska Commercial Fisheries Entry Commission Permit No. 58672V, Dillingham, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 58672V, Dillingham, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2728 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6669]

State of Alaska Commercial Fisheries Entry Commission Permit No. 61482N, Dillingham, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 61482N, Dillingham, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2729 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6670]

State of Alaska Commercial Fisheries Entry Commission Permit No. 56847J, Dillingham, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement

Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 56847J, Dillingham, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2730 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6671]

State of Alaska Commercial Fisheries Entry Commission Permit No. 59293X, Dillingham, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 59293X, Dillingham, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2731 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6675]

State of Alaska Commercial Fisheries Entry Commission Permit No. 64122W, Dillingham, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 64122W, Dillingham, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2732 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6676]

State of Alaska Commercial Fisheries Entry Commission Permit No. 61314F, Dillingham, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 61314F, Dillingham, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2733 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6677]

State of Alaska Commercial Fisheries Entry Commission Permit No. 67325N, Dillingham, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 67325N, Dillingham, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2734 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6786]

State of Alaska Commercial Fisheries Entry Commission Permit No. 60136S, King Salmon, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement

Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 60136S, King Salmon, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2735 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6787]

State of Alaska Commercial Fisheries Entry Commission Permit No. 58196R, King Salmon, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 58196R, King Salmon, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2736 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6789]

State of Alaska Commercial Fisheries Entry Commission Permit No. 58662X, King Salmon, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 58662X, King Salmon, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2737 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6790]

State of Alaska Commercial Fisheries Entry Commission Permit No. 55574A, King Salmon, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 55574A, King Salmon, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2738 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6792]

State of Alaska Commercial Fisheries Entry Commission Permit No. 66997L, King Salmon, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 66997L, King Salmon, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2739 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6793]

State of Alaska Commercial Fisheries Entry Commission Permit No. 60215O, King Salmon, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement

Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 60215O, King Salmon, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2740 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6795]

State of Alaska Commercial Fisheries Entry Commission Permit No. 50167A, King Salmon, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 50167A, King Salmon, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2741 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6796]

State of Alaska Commercial Fisheries Entry Commission Permit No. 50073U, King Salmon, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 50073U, King Salmon, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2742 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6797]

State of Alaska Commercial Fisheries Entry Commission Permit No. 50075F, King Salmon, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 50075F, King Salmon, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2743 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6798]

State of Alaska Commercial Fisheries Entry Commission Permit No. 50075F, King Salmon, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 50075F, King Salmon, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2744 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6799]

State of Alaska Commercial Fisheries Entry Commission Permit No. 55933B, Kokhanok, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement

Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 55933B, Kokhanok, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2745 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–7412]

State of Alaska Commercial Fisheries Entry Commission Permit No. 58233O, Newhalen, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 58233O, Newhalen, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2747 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–7413]

State of Alaska Commercial Fisheries Entry Commission Permit No. 66587G, Nondalton, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 66587G, Nondalton, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2748 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–7415]

State of Alaska Commercial Fisheries Entry Commission Permit No. 65175O, Nondalton, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 65175O, Nondalton, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2749 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–7416]

State of Alaska Commercial Fisheries Entry Commission Permit No. 65886P, Nondalton, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 65886P, Nondalton, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2750 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–7417]

State of Alaska Commercial Fisheries Entry Commission Permit No. 64782N, Nondalton, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement

Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 64782N, Nondalton, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2751 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–7418]

State of Alaska Commercial Fisheries Entry Commission Permit No. 64951U, Nondalton, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 64951U, Nondalton, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2752 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–7419]

State of Alaska Commercial Fisheries Entry Commission Permit No. 64670W, Nondalton, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 64670W, Nondalton, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2753 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–7420]

State of Alaska Commercial Fisheries Entry Commission Permit No. 65111I, Nondalton, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 65111I, Nondalton, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2754 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–7421]

State of Alaska Commercial Fisheries Entry Commission Permit No. 58779E, Pedro Bay, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 58779E, Pedro Bay, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2755 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–7422]

State of Alaska Commercial Fisheries Entry Commission Permit No. 59935J, Pedro Bay, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement

Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 59935J, Pedro Bay, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2756 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–7423]

State of Alaska Commercial Fisheries Entry Commission Permit No. 59954M, Pilot Point, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 59954M, Pilot Point, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2757 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–7425]

State of Alaska Commercial Fisheries Entry Commission Permit No. 58352B, Pilot Point, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 58352B, Pilot Point, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2758 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–7426]

State of Alaska Commercial Fisheries Entry Commission Permit No. 65050X, Pilot Point, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 65050X, Pilot Point, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2759 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–7427]

State of Alaska Commercial Fisheries Entry Commission Permit No. 59641L, Pilot Point, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 59641L, Pilot Point, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 26th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2760 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–7428]

State of Alaska Commercial Fisheries Entry Commission Permit No. 65907J, Pilot Point, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement

Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 65907J, Pilot Point, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2761 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–7430]

State of Alaska Commercial Fisheries Entry Commission Permit No. 58139K, Port Alsworth, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit No. 58139K, Port Alsworth, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2762 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–7431]

State of Alaska Commercial Fisheries Entry Commission Permit No. 58140B, Port Alsworth, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit # 58140B, Port Alsworth, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2763 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–7432]

State of Alaska Commercial Fisheries Entry Commission Permit No. 65423Q, Port Heiden, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit # 65423Q, Port Heiden, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2764 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–7433]

State of Alaska Commercial Fisheries Entry Commission Permit No. 59894U, Port Heiden, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002 in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, State of Alaska Commercial Fisheries Entry Commission Permit # 59894U, Port Heiden, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–2765 Filed 2–4–03; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL COUNCIL ON DISABILITY

Youth Advisory Committee Meetings (Teleconferences)

Times and Dates: 12 p.m., EST March 21, 2003, and 12 p.m., EDT May 23, 2003.

Place: National Council on Disability, 1331 F Street, NW., Suite 850, Washington, DC.

Agency: National Council on Disability (NCD).

Status: All parts of this meeting will be open to the public. Those interested in participating in these meetings (teleconferences) should contact the appropriate staff member listed below. Due to limited resources, only a few telephone lines will be available for these conference calls.

Agenda: Roll call, announcements, reports, new business, adjournment.

FOR FURTHER INFORMATION CONTACT: Geraldine Drake Hawkins, Ph.D., Program Specialist, National Council on Disability, 1331 F Street NW., Suite 850, Washington, DC 20004; 202–272–2004 (voice), 202–272–2074 (TTY), 202–272–2022 (fax), *ghawkins@ncd.gov* (e-mail).

Youth Advisory Committee Mission: The purpose of NCD's Youth Advisory Committee is to provide input into NCD activities consistent with the values and goals of the Americans with Disabilities Act.

Dated: January 31, 2003.

Ethel D. Briggs,

Executive Director.

[FR Doc. 03–2795 Filed 2–4–03; 8:45 am]

BILLING CODE 6820–MA–P

NATIONAL COUNCIL ON THE HUMANITIES

Meeting

January 31, 2003.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given the National Council on the Humanities will meet in Washington, DC on February 27–28, 2003.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support from and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC. A portion of the morning and afternoon sessions on February 27–28, 2003, will not be open to the public pursuant to subsections (c)(4),(c)(6) and (c)(9)(B) of section 552b of title 5, United States Code because the Council will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and information the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated July 19, 1993.

The agenda for the session on February 27, 2003, will be as follows:

Committee Meetings (*Open to the public*) Policy discussion.

9—10:30 a.m.

Education Programs—Room 714
Federal/State Partnership—Room 507
Preservation and Access—Room 415
Public Programs—Room 420
Research Programs—Room 315

(Closed to the public) Discussion of specific grant applications and programs before the Council.

10:30 a.m. until adjourned

Education Programs—Room 714
Federal/State Partnership—Room 507
Preservation and Access—Room 415
Public Programs—Room 420
Research Programs—Room 315
Jefferson Lecture—Room 527

The morning session on February 28, 2003, will convene at 9 a.m., in the 1st Floor Council Room M–09, and will be open to the public, as set out below. The agenda for the morning session will be as follows:

A. Minutes of the previous meeting.
B. Reports
1. Introductory remarks
2. Staff report
3. Congressional report
4. Budget report
5. Reports on policy and general matters
a. Overview
b. Research programs
c. Education programs
d. Preservation and access
e. Public programs
f. Federal/State partnership
g. Jefferson lecture

The remainder of the proposed meeting will be given to the consideration of specific applications and closed to the public for the reasons stated above.

Further information about this meeting can be obtained from Mr. Daniel C. Schneider, Advisory Committee Management Officer, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or by calling (202) 606–8322, TDD (202) 606–8282. Advance notice of any special needs or accommodations is appreciated.

Daniel C. Schneider,

Advisory Committee, Management Officer.

[FR Doc. 03–2779 Filed 2–4–03; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent to Extend an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the National Science Foundation (NSF) will publish periodic summaries of proposed projects.

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.

DATES: Written comments on this notice must be received by April 7, 2003 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR ADDITIONAL INFORMATION OR COMMENTS: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292–7556; or send email to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: Request for Proposals.

OMB Approval Number: 3145–0080.

Expiration Date of Approval: July 31, 2003.

Type of Request: Intent to seek approval to extend an information collection for three years.

Proposed Project: The Federal Acquisition Regulations (FAR) Subpart 15.2—''Solicitation and Receipt of Proposals and Information'' prescribes policies and procedures for preparing

and issuing Requests for Proposals. The FAR System has been developed in accordance with the requirement of the Office of Federal Procurement Policy Act of 1974, as amended. The NSF Act of 1950, as amended, 42 U.S.C. 1870, Sec. II, states that NSF has the authority to:

(c) Enter into contracts or other arrangements, or modifications thereof, for the carrying on, by organizations or individuals in the United States and foreign countries, including other government agencies of the United States and of foreign countries, of such scientific or engineering activities as the Foundation deems necessary to carry out the purposes of this Act, and, at the request of the Secretary of Defense, specific scientific or engineering activities in connection with matters relating to international cooperation or national security, and, when deemed appropriate by the Foundation, such contracts or other arrangements or modifications thereof, may be entered into without legal consideration, without performance or other bonds and without regard to section 5 of title 41, U.S.C.

Use of the Information: Request for Proposals (RFP) is used to competitively solicit proposals in response to NSF need for services. Impact will be on those individuals or organizations who elect to submit proposals in response to the RFP. Information gathered will be evaluated in light of NSF procurement requirements to determine who will be awarded a contract.

Estimate of Burden: The Foundation estimates that, on average, 558 hours per respondent will be required to complete the RFP.

Respondents: Individuals; business or other for-profit; not-for-profit institutions; Federal government; state, local, or tribal governments.

Estimated Number of Responses: 75.

Estimated Total Annual Burden of Respondents: 41,850 hours.

Dated: January 30, 2003.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 03–2640 Filed 2–4–03; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Tennessee Valley Authority; Sequoyah Nuclear Plant, Unit 2

[Docket No. 50–328]

Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Tennessee Valley Authority (the licensee) to withdraw its July 10, 2002, application for proposed amendment to Facility Operating License No. DPR–79 for the Sequoyah Nuclear Plant, Unit No. 2, located in Hamilton County, Tennessee.

The proposed one-time technical specification (TS) change would have revised the Sequoyah Unit 2 Limiting Condition for Operation for TS Section 3.7.4, ''Essential Raw Cooling Water System,'' to include provisions for maintaining operability of this system during performance of heavy load lifts associated with the Unit 1 steam generator replacement (SGR) project. The provisions were intended to ensure safe operation of Unit 2 during heavy load lift activities. In addition, compensatory measures proposed would have ensured safe shutdown capability of Unit 2 in the unlikely event a heavy load drop occurs over Essential Raw Cooling Water system piping.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on August 6, 2002 (67 FR 50960). However, by letter dated November 15, 2002, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated July 10, 2002, and the licensee's letter dated November 15, 2002, which withdrew the application for license amendment. 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, 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 30th day of January 2003.

For the Nuclear Regulatory Commission.

Raj K. Anand,

Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–2711 Filed 2–4–03; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Emergency Clearance and Review; Comment Request for New Information Collection: Scholarship for Service Program Internet Web Site

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) submitted a request to the Office of Management and Budget for emergency clearance and review of a new information collection for a Scholarship For Service Program internet website. Approval of the Scholarship For Service Program internet website is necessary to facilitate the timely registration, selection and placement of program-enrolled students in Federal agencies.

The SFS Program was established by the National Science Foundation in accordance with the Federal Cyber Service Training and Education Initiative as described in the President's National Plan for Information Systems Protection. This program seeks to increase the number of qualified students entering the fields of information assurance and computer security in an effort to respond to threats to the Federal Government's information technology infrastructure. The program provides capacity building grants to selected 4-year colleges and universities to develop or improve their capacity to train information assurance professionals. It also provides selected 4-year colleges and universities scholarship grants to attract students to the information assurance field. Participating students who receive scholarships from this program are required to serve a 10-week internship during their studies and complete a post-graduation employment commitment equivalent to the length of the scholarship or one year, whichever is longer.

In anticipation of the fall 2002 graduating classes of participating institutions, OPM projects an additional 30 students to be placed, with up to 200 students presently needing placement. This is a new collection of information. Based on other programs that collect similar information, we estimate the collection of information for registering and creating an online resume to be 45 minutes to 1-hour in length of time to

answer questions. We estimate the total number of hours to be 200.

Comments are particularly invited on: whether this information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Mary Beth Smith-Toomey at (202) 606–8358, fax (202) 418–3251 or e-mail to *mbtoomey@opm.gov*. Please include your complete mailing address with your request.

DATES: Comments on this proposal should be received within five (5) calendar days from the date of this publication. We are requesting OMB to take action within ten (10) calendar days from the close of this **Federal Register** Notice.

ADDRESSES: Send or deliver comments to: U.S. Office of Personnel Management, Employment Service, ATTN: Rob Timmins, 1900 E Street, NW., Room 1425, Washington, DC 20415–9820, E-mail: *ratimmin@opm.gov*; and Stuart Shapiro, OPM Desk Officer, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 03–2704 Filed 2–4–03; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 31a–1, SEC File No. 270–173, OMB Control No. 3235–0178;
rule 18f–3, SEC File No. 270–385, OMB Control No. 3235–0441;
rule 498, SEC File No. 270–435, OMB Control No. 3235–0488;
rule 34b–1, SEC File No. 270–305, OMB Control No. 3235–0346.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension on the previously approved collections of information discussed below.

Rule 31a–1 (17 CFR 270.31a–1) under the Investment Company Act of 1940 (the ''Act'') is entitled ''Records to be maintained by registered investment companies, certain majority-owned subsidiaries thereof, and other persons having transactions with registered investment companies.'' Rule 31a–1 requires registered investment companies (''funds''), and every underwriter, broker, dealer, or investment adviser that is a majority-owned subsidiary of a fund, to maintain and keep current accounts, books, and other documents which constitute the record forming the basis for financial statements required to be filed pursuant to section 30 of the Act (15 U.S.C. 80a–30) and of the auditor's certificates relating thereto. The rule lists specific records to be maintained by funds. The rule also requires certain underwriters, brokers, dealers, depositors, and investment advisers to maintain the records that they are required to maintain under federal securities laws. The Commission periodically inspects the operations of funds to insure their compliance with the provisions of the Act and the rules thereunder. The books and records required to be maintained by rule 31a–1 constitute a major focus of the Commission's inspection program.

There are approximately 4,500 investment companies registered with the Commission, all of which are required to comply with rule 31a–1. For purposes of determining the burden imposed by rule 31a–1, the Commission staff estimates that each registered investment company is divided into approximately four series, on average, and that each series is required to comply with the recordkeeping requirements of rule 31a–1. Based on conversations with fund representatives, it is estimated that rule 31a–1 imposes an average burden of approximately 1,400 hours annually per series for a total of 5,600 annual hours per investment company. The estimated total annual burden for all 4,500 investment companies subject to the rule therefore is approximately 25,200,000 hours. Based on conversations with fund representatives, however, the Commission staff estimates that even absent the requirements of rule 31a–1, most of the records created pursuant to the rule are the type that generally would be created as a matter of normal business custom and to prepare financial statements.

The collection of information required by rule 31a–1 is mandatory. Responses will not be kept confidential. The records required by rule 31a–1 are required to be preserved pursuant to rule 31a–2 under the Investment Company Act (17 CFR 270.31a–2). Rule 31a–2 requires that certain of these records be preserved permanently, and that others be preserved six years from the end of the fiscal year in which any transaction occurred. In both cases, the records should be kept in an easily accessible place for the first two years.

Section 18(f)(1)[1] of the Act[2] prohibits registered open-end management investment companies from issuing any senior security. Rule 18f–3 under the Act[3] exempts from section 18(f)(1) a fund that issues multiple classes of shares representing interests in the same portfolio of securities (a ''multiple class fund'') if the fund satisfies the conditions of the rule. In general, each class must differ in its arrangement for shareholder services or distribution or both, and must pay the related expenses of that different arrangement.

The rule includes one requirement for the collection of information. A multiple class fund must prepare and fund directors must approve a written plan setting forth the separate arrangement and expense allocation of each class, and any related conversion features or exchange privileges (''rule 18f–3 plan'').[4] Approval of the plan must occur before the fund issues any shares of multiple classes, and whenever the fund materially amends the plan. In approving the plan, a majority of the fund board, including a majority of the fund's independent directors, must determine that the plan is in the best interests of each class and the fund as a whole.

The requirement that the fund prepare and directors approve a written rule 18f–3 plan is intended to ensure that the fund compiles information relevant to the fairness of the separate arrangement and expense allocation for each class, and that directors review and approve the information. Without a blueprint that highlights material differences among classes, directors might not perceive potential conflicts of interests when they determine whether the plan is in the best interests of each class and

[1] 15 U.S.C. 80a–18(f)(1).
[2] 15 U.S.C. 80a.
[3] 17 CFR 270.18f–3.
[4] Rule 18f–3(d).

the fund. In addition, the plan may be useful to Commission staff in reviewing the fund's compliance with the rule.

There are approximately 516 multiple class funds.[5] Based on a review of typical rule 18f–3 plans, the Commission's staff estimates that the 516 funds together make an average of 258 responses each year to prepare and approve a written rule 18f–3 plan, requiring approximately 18.5 hours per response, and a total of 4,773 burden hours per year in the aggregate.[6] Preparation of the rule 18f–3 plan may require 11 hours of the services of an attorney or accountant, at a cost of approximately $130 per hour for professional time, and approval of the plan may require 1.5 hours of the attention of each of 5 directors, at a cost of approximately $500 per hour per director. The staff therefore estimates that the aggregate annual cost of complying with the paperwork requirements of the rule is approximately $1,336,440 ((11 hours × 1 professional × 258 responses × $130) + (1.5 hours × 5 directors × 258 responses × $500)).

The estimated annual burden of 4,773 hours represents an increase of 3,260.5 hours over the prior estimate of 1,512.5 hours. The increase in burden hours is attributable to more accurate estimates of the burden hours that reflect additional time spent by professionals and time spent by directors. The estimated number of multiple class funds has decreased, however, from 550 to 516.

Complying with this collection of information requirement is necessary to obtain the benefit of relying on rule 18f–3. Responses will not be kept confidential.

Rule 498 of the Securities Act of 1933 (17 CFR 230.498) permits open-end management investment companies (or a series of an investment company organized as a series company, which offers one or more series of shares representing interests in separate investment portfolios) (''funds'') to provide investors with a ''profile'' that contains a summary of key information about a fund, including the fund's investment objectives, strategies, risks and performance, and fees, in a standardized format. The profile provides investors the option of buying fund shares based on the information in the profile or reviewing the fund's prospectus before making an investment decision. Investors purchasing shares based on a profile receive the fund's prospectus prior to or with confirmation of their investment in the fund.

Consistent with the filing requirement of a fund's prospectus, a profile must be filed with the Commission 30 days before first use. Such a filing allows the Commission to review the profile for compliance with rule 498. Compliance with the rule's standardized format assists investors in evaluating and comparing funds.

It is estimated that approximately 16 initial profiles and 316 updated profiles are filed with the Commission annually. The Commission estimates that each profile contains on average 1.25 portfolios, resulting in 20 portfolios filed annually on initial profiles and 395 portfolios filed annually on updated profiles. The number of burden hours for preparing and filing an initial profile per portfolio is 25. The number of burden hours for preparing and filing an updated profile per portfolio is 10. The total burden hours for preparing and filing initial and updated profiles under rule 498 is 4,450, representing a decrease of 2,660 hours from the prior estimate of 7,110. The reduction in burden hours is attributable to the lower number of profiles actually prepared and filed as compared to the previous estimates.

The collection of information under rule 498 is voluntary. The information provided by rule 498 is not kept confidential.

Rule 34b–1 under the Investment Company Act (17 CFR 270.34b–1) governs sales material that accompanies or follows the delivery of a statutory prospectus (''sales literature''). Rule 34b–1 deems to be materially misleading any investment company sales literature, required to be filed with the Commission by section 24(b) of the Investment Company Act (15 U.S.C. 80a–24(b)),[7] that includes performance data unless it also includes the appropriate uniformly computed data and the legend disclosure required in advertisements by rule 482 under the Securities Act of 1933 (17 CFR 230.482). Requiring the inclusion of such standardized performance data in sales literature is designed to prevent misleading performance claims by funds and to enable investors to make meaningful comparisons among fund performance claims.

The Commission estimates that respondents file approximately 37,000 responses with the Commission, which include the information required by rule 34b–1. The burden from rule 34b–1 requires slightly more than 2.4 hours per response resulting from creating the information required under rule 34b–1.[8] The total burden hours for rule 34b–1 is 89,143 per year in the aggregate (37,000 responses × 2.4092702 hours per response).

The collection of information under rule 34b–1 is mandatory. The information provided under rule 34b–1 is not kept confidential.

The estimates of average burden hours are made solely for the purposes of the Act and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms. 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.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503; and (ii) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: January 28, 2003.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–2645 Filed 2–4–03; 8:45 am]

BILLING CODE 8010–01–P

[5] This estimate is based on data from form N–SAR, the semi-annual report that funds file with the Commission.

[6] The estimate reflects the assumption that each multiple class fund prepares and approves a rule 18f–3 plan every two years when issuing a new class or amending a plan (or that 258 of all 516 funds prepare and approve a plan each year). The estimate assumes that the time required to prepare a plan is 11 hours per plan (or 2,838 hours for 258 funds annually), and the time required to approve a plan is an additional 1.5 hours per director per plan (or 1,935 hours for 258 funds annually (assuming five directors per fund)).

[7] Sales literature addressed to or intended for distribution to prospective investors shall be deemed filed with the Commission for purposes of section 24(b) of the Investment Company Act upon filing with a national securities association registered under section 15A of the Securities Exchange Act of 1934 that has adopted rules providing standards for the investment company advertising practices of its members and has established and implemented procedures to review that advertising. *See* rule 24b–3 under the Investment Company Act (17 CFR 270.24b–3).

[8] The estimated burden per response is 2.9 hours for 686 responses and 2.4 hours for the remaining, giving a more exact weighted average burden per response of approximately 2.4092702.

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (68 FR 5058, January 31, 2003).

STATUS: Open meeting.

PLACE: 450 Fifth Street, NW., Room 1C30, the William O. Douglas Room, Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Tuesday, February 4, 2003, at 10 a.m.

CHANGE IN THE MEETING: Time change.

The open meeting scheduled for Tuesday, February 4, 2003, at 10 a.m. has been changed to Tuesday, February 4, 2003, at noon.

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 31, 2003.

Jonathan G. Katz,

Secretary.

[FR Doc. 03–2828 Filed 1–31–03; 4:43 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47281; File No. SR–Amex–2002–48]

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC Relating to its Marketing Performance Standards for Exchange Specialists

January 29, 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 May 30, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On January 27, 2003, the Exchange filed an amendment to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt Commentary .08 to Amex Rule 26 (''Performance Committee'') to establish marketing performance standards for Exchange specialists. 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 Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Committee on Floor Member Performance (''Performance Committee'') reviews specialist performance and may take remedial action, including terminating a specialist's registration or reallocating securities, when it identifies inadequate performance. The Exchange believes that the Performance Committee protects both the interests of investors, by taking remedial actions to correct poor performance, and the institutional interests of the Exchange, by ensuring that the Amex is as competitive as possible with other markets.[4]

The Exchange recently amended its rules to include ''competition with other markets'' and ''administrative factors'' among the standards by which the Performance Committee may evaluate specialist performance.[5] Pursuant to these standards, the Exchange is proposing to adopt objective requirements regarding specialist communications with listed companies and order flow providers.[6] The Exchange believes that the purpose of the proposed rule change is to enhance the specialist's communication function by requiring that the specialist maintain frequent and personal contact with the listed companies and member firm customers that he or she serves.

Under the proposal, specialists would be required to contact off the Floor or, if on the Trading Floor, outside of the Exchange's regular auction market business hours, listed companies and the sponsors or issuers of Exchange Traded Funds, structured products, Trust Issued Receipts, and other equity derivatives on a quarterly basis. These quarterly ''issuer'' contacts are expected to help foster an understanding of the specialist function, the operations of the

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from William Floyd-Jones, Assistant General Counsel, Amex, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated January 14, 2003 (''Amendment No. 1''). Amendment No. 1 clarifies in the proposed rule text that contacts by exchange specialists to issuers or representatives of member organizations will be conducted either off the Exchange floor or, if on the Exchange floor, outside of normal auction market business hours.

[4] *See In the Matter of the Application of Pacific Stock Exchange's Options Floor Post X–17,* Admin. Proc. File No. 3–7285, Securities Exchange Act Release No. 31666 (December 29, 1992), 51 SEC Dkt. 261. The Commission determined that performance evaluation processes fulfill a combination of business and regulatory interests at exchanges and are not disciplinary in nature. The Commission states in the *Post X–17* case:

We believe that the reallocation of a market maker's (or a specialist's) security due to poor performance is neither an action responding to a violation of an exchange rule nor an action where a sanction is sought or intended. Instead, we believe that performance-based security reallocations are instituted by exchanges to improve market maker performance and to ensure quality of markets. Accordingly, in approving rules for performance-based reallocations, we historically have taken the position that the reallocation of a specialist's or a market maker's security due to inadequate performance does not constitute a disciplinary sanction.

We believe that an SRO's need to evaluate market maker and specialist performance arises from both business and regulatory interests in ensuring adequate market making performance by its market makers and specialists that are distinct from the SRO's enforcement interests in disciplining members who violate SRO or Commission Rules. An exchange has an obligation to ensure that its market makers or specialists are contributing to the maintenance of fair and orderly markets in its securities. In addition, an exchange has an interest in ensuring that the services provided by its members attract buyers and sellers to the exchange. To effectuate both purposes, an SRO needs to be able to evaluate the performance of its market makers or specialists and transfer securities from poor performing units to the better performing units. This type of action is very different from a disciplinary proceeding where a sanction is meted out to remedy a specific rule violation. (Footnotes omitted.)

See also In re James Niehoff and Company, Administrative Proceeding File No. 3–6757, (November 30, 1986), and the other authorities cited in the Commission's *Post X–17* decision.

[5] *See* Amex Rule 26(b), and Securities Exchange Act Release No. 45260 (January 9, 2002), 67 FR 2255 (January 16, 2002) (order approving SR–Amex–2001–19).

[6] The Exchange notes that specialist communications with issuers, and, in particular, the scope of permissible disclosure between specialists and issuers, are discussed in further detail in Section 910 of the Amex *Company Guide*. ?≤

Exchange market, and the markets that are maintained in the issuers' stocks. Specialists also would be required to contact (quarterly) off the Floor or, if on the Trading Floor, outside of the Exchange's regular auction market business hours, major order flow providers to maintain open communications with these important customers of the Exchange. The purpose of these contacts with order flow providers is to discuss the service, operational and competitive requirements of the member firms. In addition, specialists would be required to maintain records of these contacts, which would be reviewed by Amex staff.

The Exchange notes that the purpose of requiring contacts to be made by specialists off the Floor or, if on the Floor, outside of regular auction market business hours, is to ensure that the contacts can occur without the distractions of a normal business day. The Performance Committee would be responsible for taking appropriate remedial action in the event that a specialist fails to meet the objective marketing standards.

A review by the Performance Committee can result in a variety of possible actions, ranging from recommendations for performance improvement, a determination not to permit a firm to seek new allocations, to a reallocation of one or more securities from a specialist. The Performance Committee is not precluded from reallocating securities based on a single quarter of deficient performance. Conversely, the Performance Committee is not required to take such actions. Rather, the Exchange believes that the purpose of these standards is to identify circumstances that warrant review by the Performance Committee. The nature of the appropriate remedial action is necessarily an issue that involves the professional judgment of the Performance Committee members and is dependent on such matters as the securities being traded, competition on other exchanges, personnel and systems changes, and other factors. Accordingly, such determinations are left to the expertise, discretion and judgment of the Performance Committee.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act[7] in general, and further the objectives of Section 6(b)(5) of the Act[8] in particular, in that the Exchange's procedures are designed to promote just and equitable principles of trade and protect investors and the public interest by encouraging good performance and competition among specialists.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition; rather, it will enhance and encourage competition within the Exchange, and, more significantly, among the Exchange and other exchanges and markets by establishing incentives for superior performance and thereby ensuring the maintenance of quality markets at the Exchange. In this respect, the Exchange believes that it is critical to recognize that the most important level of competition occurs not among specialists of the same exchange to obtain a particular listing (although this, too, is important), but rather among specialists of different exchanges trading in the same security and actively competing for the business of the investing public. The Exchange also believes the Commission has expressly recognized that the types of procedures set forth in the proposed rule change for reviewing the performance of specialists and taking remedial action where appropriate, are necessary to ensure quality markets.[9]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange.

All submissions should refer to File No. SR–Amex–2002–48 and should be submitted by February 26, 2003.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–2676 Filed 2–4–03; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *See* Securities Exhange Act Release No. 45260 (January 9, 2002), 67 FR 2255 (January 16, 2002) (order approving Amex–2001–19).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47287; File No. SR–CBOE–2002–40]

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc. Relating to Options on the CBOE Asian 25 Index and Options on the CBOE Euro 25 Index

January 30, 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 July 22, 2003, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CBOE. On January 13, 2003, CBOE filed an amendment to the proposed rule change.[3] The Commission is publishing

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from James Flynn, Legal Division, CBOE, to Nancy Sanow, Assistant Director, Division

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

CBOE proposes to provide for the listing and trading of options on the CBOE Euro 25 Index and the CBOE Asian 25 Index, both broad-based indexes. Options on the CBOE Euro 25 Index and the CBOE Asian 25 Index would be cash-settled and would have European-style exercise provisions. The text of the proposed rule change is available at the Office of the Secretary, CBOE, 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, CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below and is set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to permit the Exchange to list and trade cash-settled, European-style stock index options on the CBOE Euro 25 Index and the CBOE Asian 25 Index. Both the CBOE Euro 25 Index and the CBOE Asian 25 Index are capitalization-weighted indexes of twenty-five (25) American Depository Receipts (''ADR''), New York Registered Shares (''NYS''), or NYSE Global Shares'' (''NGS''), which are traded on the New York Stock Exchange, Inc. (''NYSE''), the American Stock Exchange LLC (''AMEX''), or the NASDAQ.

Index Design

The CBOE Euro 25 Index and the CBOE Asian 25 Index have each been designed to measure the performance of large market capitalization companies in their respective regions. Both are market-capitalization weighted indices composed of twenty-five ADRs, NYSs or NGSs, which are traded on the NYSE, NASDAQ or the AMEX.[4] Options on both indexes shall be A.M. settled.

The component securities included in each index are based on market capitalization and the trading volume on the NYSE, NASDAQ, or AMEX over the past six months. Specifically, each component security must have a minimum market capitalization of $250 million and a trading volume of at least 500,000 shares in each of the previous six months to be included in the index. In the case of depository receipts, the market capitalization is determined based on the shares outstanding in the ''home'' market and the price in U.S. Dollars of the ADRs, NYSs, and NGSs.

Unless otherwise specified herein, both indexes shall satisfy the following general initial and maintenance criteria. (1) At least 75% of the index, in terms of market capitalization weighting, must meet CBOE's listing criteria for equity options as set forth in CBOE Rule 5.3. (2) Any non-U.S. component security (common stock or ADR) that is not subject to a comprehensive surveillance agreement shall not in the aggregate represent more than 20% weight of the index's aggregate market capitalization, unless those non-U.S. components satisfy the alternative criteria under Interpretation and Policy .03 to Rule 5.3, as further discussed below. (3) No single component security will represent more than 30% of the weight of the index. (4) Finally, the five highest weighted component security, in the aggregate, shall not account for more than 60% of the total weight of the index.

CBOE represents that it will review each index quarterly following the expiration of the respective index option contract to ensure that the above criteria are satisfied, and to make quarterly share changes as appropriate.

CBOE Euro 25 Index

According to CBOE, the pool of index components from which CBOE may choose consists of 161 ADRs, NYSs, and NGSs that are traded on the NYSE or NASDAQ, and issued on behalf of companies domiciled in one of eleven member nations of the European Union.[5] Exhibit B to the proposed rule change[6] illustrates the capitalization and weighting of the 25 component securities that constitute the current CBOE Euro 25 index, as well as the listed shares outstanding and prices for each respective security as of December 20, 2002. On that date, the twenty-five components ranged in capitalization from $5.37 billion to $97.208 billion. The largest component accounted for 11.64% of the total weighting of the index, while the smallest accounted for 0.64%. The mean capitalization of the firms in the index was $30.326 billion.

CBOE believes that the CBOE Euro 25 Index satisfies the index criteria provided above. (1) 23 of the 25 stocks in the CBOE Euro 25 Index meet CBOE's listing criteria for equity options as set forth in CBOE Rule 5.3. This represents 92.59% of the index by market capitalization weight and 92% by number. (2) 23 of the 24 ADR or NYS components that underlie the index are subject to comprehensive surveillance agreements.[7] (3) No single component represents greater than 30% of the aggregate weight of the CBOE Euro 25 Index. (4) Finally, the five highest weighted component securities in the aggregate do not account for more than 60% of the weight of the Index.[8] Exhibit C to the proposed rule change specifically illustrates the manner by which each respective index component satisfies, or fails to satisfy, the underlying component listing criteria.

CBOE Asian 25 Index

The pool of index components from which CBOE may choose consists of 107 ADRs, NYSs, and NGSs that are traded on the NYSE, NASDAQ, or AMEX and are issued on behalf of companies domiciled in one of eight Asian-Pacific countries.[9] Exhibit D to the proposed rule change illustrates the capitalization and weighting of the CBOE Asian 25 Index component securities, as well as listed shares outstanding and prices on

of Market Regulation, Commission, dated January 10, 2003 (''Amendment No. 1'') (replacing the original filing in its entirety). Amendment No. 1, among other things: (1) Clarifies the initial and maintenance criteria for the underlying component securities of the indices, including further detail on the component securities that are ADRs and not subject to comprehensive surveillance agreements; (2) clarifies that options on both indices will be A.M. settled; (3) provides more recent market capitalization and weighting figures; and (4) specifies that CBOE's surveillance procedures are adequate to monitor the trading of these products.

[4] The Exchange will make an updated list of the components underlying each index available to the public on the internet by accessing the following URL: *http://www.cboe.com/optprod/index/indexoptions.asp*.

[5] The components that make up the CBOE Euro 25 Index include securities of companies domiciled in France, Finland, Ireland, Italy, Germany, the Netherlands, Spain, Belgium, Portugal, Greece, and Austria.

[6] Exhibits to the proposed rule change discussed herein are available at the Office of the Secretary, CBOE, and at the Commission.

[7] 24 of the 25 Euro 25 Index components are either ADRs or NYSs and all are subject to comprehensive surveillance agreements or memoranda of understanding. One of the components, DaimlerChrysler, is a common stock. There is only one ADR in the Euro 25 Index, Nokia OYJ, in which the CBOE does not have in place a comprehensive surveillance agreement.

[8] The top five components of the CBOE Euro 25 Index represent 39.68% of the Index in terms of market capitalization.

[9] The components that make up the CBOE Asian 25 Index include securities of companies domiciled in Australia, China, India, Indonesia, Philippines, Singapore, South Korea and Taiwan.

December 20, 2002. On that date, the 25 components ranged in capitalization from $382.722 million to $49.140 billion. The largest component accounted for 18.38% of the total weighting of the index, while the smallest accounted for 0.14%. The mean capitalization of the firms in the index was $10.696 billion.

CBOE believes that the CBOE Asian 25 Index satisfies the index criteria noted above. (1) 18 of the 25 stocks in the CBOE Asia Index meet CBOE's listing criteria for equity options as set forth in CBOE Rule 5.3. This represents 77.73% of the index by market capitalization weight and 72% by number. (2) 13 of the 25 stocks, representing 68.71% of the index by market capitalization weight, in the CBOE Asia Index are either subject to comprehensive surveillance agreements or are common stocks that are not required to have comprehensive surveillance agreements. Although this seemingly would mean that greater than 20% of the aggregate index capitalization is comprised of components without comprehensive surveillance agreements, CBOE notes that the Commission has specified in the past that a non-U.S. security need not be considered in calculating the 20% threshold if at least 50% of the worldwide trading volume in that particular security occurs within the U.S. market.[10] CBOE notes that this is consistent with Interpretation and Policy .03(ii) to CBOE Rule 5.3. Thus, CBOE plans to apply Interpretation and Policy .03 to CBOE Rule 5.3 to any non-U.S. component that exceeds the 20% threshold for non-U.S. components that are not subject to comprehensive surveillance sharing agreements.

Thus, as provided in Interpretation and Policy .03(iii) to CBOE Rule 5.3, an individual ADR without a comprehensive surveillance agreement is deemed to satisfy CBOE's listing criteria if: (a) At least 20% of the worldwide trading volume in that foreign security occurs within the U.S. market and a market for which CBOE has a comprehensive surveillance agreement; (b) the average daily trading volume of the ADR over the past 3 months is 100,000 shares or more; and, (c) the trading volume is at least 60,000 shares per day in U.S. markets on a majority of trading days during the past months. As of December 20, 2002, CBOE represent that the applicable component securities meet these criteria. In light of these standards, 21 of the 25 stocks, or 89.39% of the aggregate index market capitalization do satisfy acceptable listing standards. (3) No single component represents greater than 30% of the aggregate weight of the CBOE Asian 25 Index. (4) Finally, the five highest weighted component securities, in the aggregate, do not account for more than 60% of the total weight of the Index.[11] Exhibit E to the proposed rule change illustrates the manner by which each respective index component satisfies, or fails to satisfy, the underlying component criteria.

Calculation

The methodology used to calculate the value of the indices is similar to the methodology used to calculate the value of other well-known broad-based indices. The level of each index reflects the total market value of the component stocks relative to a particular base period. The indices base date is January 2, 2002, when the respective index values were set to 100. On April 16, 2002, the CBOE Euro 25 Index had a closing value of 95.99 and the CBOE Asian 25 Index had a closing value of 95.64. The daily calculation of each index is computed by dividing the total market value of the companies in the respective Index by the index divisor. The divisor is adjusted periodically to maintain consistent measurement of the index. The values of each Index will be calculated by CBOE and disseminated at 15-second intervals during regular CBOE trading hours to market information vendors via Options Price Reporting Authority.

Index Option Trading

In addition to regular Index options, CBOE proposes to provide for the listing of long-term index option series (''LEAPS®'') in accordance with CBOE Rule 24.9.

For options on each index, strike prices will be set to bracket the respective index in 2 ½ point increments for strikes below 200 and 5 point increments above 200. The minimum tick size for series trading below $3 will be 0.05 and for series trading above $3 the minimum tick will be 0.10. The trading hours for options on both indexes will be from 8:30 a.m. to 3:02 p.m. Chicago time. Exhibits F and G to proposed rule change present proposed contract specifications for CBOE Euro 25 Index options and CBOE Asian 25 Index options.

Maintenance

Both the CBOE Euro 25 Index and the CBOE Asian 25 Index will be monitored and maintained by CBOE. The CBOE will make all necessary adjustments to the indexes to reflect component additions and deletions, share changes, stock splits, stock dividends (other than an ordinary cash dividend), and stock price adjustments due to restructuring, mergers, or spin-offs involving the underlying components. Some corporate actions, such as stock splits and stock dividends, require simple changes to the common shares outstanding and the stock prices of the underlying components. Other corporate actions, such as share issuances, change the market value of the Index and require the use of an index divisor to effect adjustments. Over time the number of component securities in the Index may change, but at no time will the number of underlying components drop to less than twenty. In the event of a stock replacement, the divisor will be adjusted accordingly to provide continuity in index values.[12]

Absent prior Commission approval, the component securities in either index will not exceed 40 nor be lower than 20 and shall satisfy the criteria as provided above. If the Index fails at any time to satisfy the maintenance criteria, CBOE will immediately notify the Commission of that fact and will not open for trading any additional series of options on the Index unless such failure is determined by the Exchange not to be significant and the Commission concurs in that determination, or unless the continued listing of options on each respective Index has been approved by the Commission under Section 19(b)(2) of the Exchange Act.

Surveillance

CBOE will use the same surveillance procedures currently utilized for each of the Exchange's other index options to monitor trading in options and LEAPS. For surveillance purposes, CBOE will make all reasonable efforts to monitor the trading activity and other pertinent information relating to the underlying components. CBOE represents that its surveillance procedures are adequate to monitor the trading of these products.

[10] For further details, *see* CBOE Mexico Index filing, Securities Exchange Act Release No. 34241 (June 22, 1994), 59 FR 33557 (June 29, 1994) (SR-CBOE–94–18), *citing* Securities Exchange Act Release No. 33554, 59 FR 5622 (January 31, 1994) (stating by reference to the proposal that it is appropriate to permit the listing of options on an ADR without the existence of a comprehensive surveillance agreement with the foreign market where the underlying trades, as long as the U.S. market for the underlying ADR is at least 50% or more of the worldwide trading volume).

[11] The top five components of the CBOE Asian 25 Index represent 55.20% of the weight of the index in terms of market capitalization.

[12] As noted in the section regarding ''Index Design,'' each index will be re-balanced quarterly following the expiration of the index option contract.

Exercise and Settlement

The proposed options on the Index will expire on the Saturday following the third Friday of the expiration month. Trading in the expiring contract month will normally cease at 3:02 p.m. (Chicago time) on the business day preceding the last day of trading in the component securities of the Index (ordinarily the Thursday before expiration Saturday, unless there is an intervening holiday). The exercise settlement value of the Index at option expiration will be calculated by CBOE based on the opening prices of the component securities on the business day prior to expiration. If a component security fails to open for trading, the last available price on the security will be used in the calculation of the index, as is done for currently listed indices. When the last trading day is moved because of Exchange holidays (such as when CBOE is closed on the Friday before expiration), the last trading day for expiring options will be Wednesday and the exercise settlement value of index options at expiration will be determined at the opening of regular Thursday trading.

Position Limits

CBOE proposes to establish position limits for options on the CBOE Euro 25 Index and the CBOE Asian 25 Index at 50,000 contracts on either side of the market, and no more than 30,000 of such contracts may be in the series in the nearest expiration month. These limits are roughly equivalent to the limits applicable to options on other broad-based indices under CBOE Rule 24.4(a).[13]

Exchange Rules Applicable

Except as modified herein, the Rules in Chapter XXIV will be applicable to both CBOE Euro 25 Index options and CBOE Asian 25 Index options. Index option contracts based on both the CBOE Euro 25 Index and the CBOE Asian 25 Index will be subject to the position limit requirements of CBOE Rule 24.4(a).

Additionally, CBOE affirms that it possesses the necessary systems capacity to support new series that would result from the introduction of both CBOE Euro 25 Index options and CBOE Asian 25 Index options. CBOE has also been informed that OPRA has the capacity to support such new series (see Exhibit H to the proposed rule change).

[13] Specifically, CBOE Rule 24.4(a) imposes a standard position limit of 50,000 contracts on the same side of the market for CBOE's Mexico 30 Index and CBOE's Germany 25 Index.

2. Statutory Basis

The proposed rule change 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 will permit trading in options based on the Internet Index pursuant to rules designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and thereby will provide investors with the ability to invest in options based on an additional index.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(A) 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to the File No. SR–CBOE–2002–40 and should be submitted by February 26, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–2672 Filed 2–4–03; 8:45 am]

BILLING CODE 8010–01–P

[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. 34–47290; File No. SR–CBOE–2003–02]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Reporting of Other Affiliations of Associated Persons to the Exchange

January 30, 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 Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 3.6A—''Qualification and Registration of Certain Associated Persons,'' and Rule 9.4—''Other Affiliations of Registered Representatives,'' to (i) eliminate the need for member organizations to seek prior Exchange approval for Registered Representatives, employed in a non-supervisory capacity, to engage in business practices during business

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

hours for other than the business of the member organization with which the person is associated; and (ii) to require prompt notice, but not Exchange approval, of persons registered as Registered Options Principals, Sales Supervisors or Financial and Operations Principals with member organizations for which the CBOE is the firm's Designated Examining Authority who are acting as a part-time employee or independent contractor of the member or engaged in outside business activities. Below is the text of the proposed rule change. Proposed new language is *italicized.* Proposed deletions are in [brackets].

* * * * *

Chicago Board Options Exchange, Inc. Rules

* * * * *

Rule 3.6A. Qualification and Registration of Certain Associated Persons

(a) Financial/Operations Principal. Each individual member or member organization subject to Exchange Act Rule 15c3–1 shall designate a Financial/Operations Principal. The duties of a Financial/Operations Principal shall include taking appropriate actions to assure that the member complies with applicable financial and operational requirements under the Rules and the Exchange Act, including but not limited to those requirements relating to the submission of financial reports and the maintenance of books and records. Each Financial/Operations Principal is required to have successfully completed the Financial and Operations Principal Examination (Series 27 Exam). Each Financial/Operations Principal designated by a member shall be registered in that capacity with the Exchange in a form and manner prescribed by the Exchange. A Financial/Operations Principal of a member may be a full-time employee [of the member], [or with the prior written approval of the Exchange, may be] a part-time employee or independent contractor of the member. *Member firms for which the Exchange is the Designated Examining Authority (''DEA'') must provide prompt written notice to the Exchange's Department of Financial and Sales Practice Compliance for each person designated as a Financial/Operations Principal reporting whether such person is a full-time employee, part-time employee, independent contractor or has any outside business affiliations.*

(b) No change.

* * * Interpretations and Policies:

.01–.03 No change.

* * * * *

Chapter IX

* * * * *

Doing Business With the Public

Rule 9.4. Other Affiliations of Registered [Representatives] *Associated Persons*

(a) No person associated with a member in any registered capacity shall be employed by, or accept compensation from, any other person or entity as a result of any business activity, other than a passive investment, outside the scope of his/her relationship with his/her employer firm, unless the person has provided prompt written notice to the member and has received prior written consent of the member.

(b) Except with the *prior written consent of the member and* [express] *prompt* written *notice to* [permission of] the Exchange, every Registered Options Principal, *Sales Supervisor, and Financial/Operations Principal registered with a member for which the Exchange is the Designated Examining Authority (''DEA'')* and Registered Representative shall devote his/*her* entire time during business hours to the business of the member organization employing [him] *or compensating him/her.* [or to the business of its affiliates which are engaged in the transaction of business as a broker or dealer in securities or commodities or in such other businesses as have been approved by the Exchange.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule is to bring the outside business affiliation reporting requirements of registered persons of CBOE members in line with those of the other major securities exchanges. Current National Association of Securities Dealers (''NASD''), New York Stock Exchange (''NYSE''), American Stock Exchange (''AMEX''), Pacific Exchange (''PCX''), and Philadelphia Stock Exchange (''PHLX'') rules do not require SRO approval for the outside business activities of registered persons operating in a non-supervisory capacity but rather require such notification be made to and receive the approval from the member organization employing or compensating the registered person.[3] PHLX Rule 793 requires such member organization approvals be filed with their Office of the Secretary.

CBOE Rule 9.4 is proposed to be amended to reduce the current reporting burden of member organizations by eliminating the need for member organizations to seek prior Exchange approval for Registered Representatives, employed in a non-supervisory capacity, to engage in business practices during business hours for other than the business of the member organization with which the person is associated. Proposed Rule 9.4(a) instead would require that each associated person in any registered capacity with a member organization provide written notification to the member organization and receive written approval from the member organization prior to becoming employed by, or accepting compensation from, any other person or entity as a result of business activity, other than a passive investment, outside the scope of his/her relationship with the member organization.

Proposed Rule 9.4(b) would specifically require the prior written consent of the member and prompt written notice to the Exchange for outside affiliations of persons registered with a member, for which the CBOE is the DEA, in the capacity of a Registered Options Principal, Sales Supervisor, or Financial and Operations Principal. This proposed amendment to Rule 9.4 would also require a corresponding amendment to Exchange Rule 3.6A(a) to require prompt notice to the Exchange, rather than prior written approval of the Exchange, of a Financial and Operations Principal acting as a part-time employee or independent contractor or engaged in outside business activities. NYSE and AMEX rules require Exchange approval for registered persons delegated supervisory responsibilities and performing such duties on a part-time basis, however, the NASD does not have a comparable rule.[4] Therefore, the

[3] *See* AMEX Rule 342(b), NASD Rule 3030, NYSE Rule 346(b), PCX Rule 1.26(d) and PHLX Rule 793.

[4] *See* NYSE Rule 346(e) and AMEX Rule 342(a).

Exchange believes that it is appropriate to replace the current Exchange approval process with a notice requirement only where the employing member is designated to the CBOE for financial oversight.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act [5] in general and furthers the objectives of Section 6(b)(5) [6] in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. CBOE–2003–02 and should be submitted by February 26, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–2674 Filed 2–4–03; 8:45 am]

BILLING CODE 8010–01–P

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47289; File No. SR–ISE–2002–28]

Self-Regulatory Organizations; International Securities Exchange LLC; Order Granting Approval to Proposed Rule Change To Increase the Number of Authorized Shares of Class B Common Stock, Series B–2 From 100 to 130

January 30, 2003.

On November 21, 2002, the International Securities Exchange LLC (''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 to increase the number of authorized shares of Class B Common Stock, Series B–2 from 100 to 130. This increase would result in the creation of 30 additional Competitive Market Maker (''CMM'') Memberships.[3] The proposed rule change was published for comment in the **Federal Register** on December 27, 2002.[4] The Commission received no comments on the proposal. This order approves the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange,[5] and in particular, the requirements of Section 6 of the Act [6] and the rules and regulations thereunder. The Commission finds that the proposal to increase the number of authorized shares of Class B Common Stock, Series B–2 from 100 to 130, resulting in the creation of 30 additional CMM Memberships, is consistent with Section 6(b)(5) of the Act [7] because it is designed to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Specifically, the Commission believes that the sale of 30 additional CMM Memberships may increase the depth and liquidity of the Exchange's market. It may also provide more broker-dealers with an opportunity to participate on the Exchange. The Exchange also represented that it has carefully evaluated its systems capacity and believes that it has more than sufficient capacity to handle the increased number of CMM Members without any adverse effects. Furthermore, the Exchange noted that it would require a purchaser of one of these new Memberships that is not already a CMM to meet all Exchange requirements currently applicable to CMM Members.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (File No. SR–ISE–2002–28) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–2673 Filed 2–4–03; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] CMMs are market makers that compete with a Primary Market Maker and other CMMs to provide liquidity on the Exchange.

[4] *See* Securities Exchange Act Release No. 47035 (December 19, 2002), 67 FR 79202.

[5] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47285; File No. SR–NYSE–2002–44]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the New York Stock Exchange, Inc. Relating to Amendments to the Exchange's Automatic Execution Facility (NYSE Direct+)

January 29, 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 September 9, 2002 the New York Stock Exchange, Inc. (''NYSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the NYSE. The Exchange submitted an amendment to the proposed rule change on January 27, 2003.[3] 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 proposed rule change consists of an amendment to Exchange Rule 1000 governing NYSE Direct+® (''Direct +''). The proposed rule amendment provides that (i) Direct+ executions will not be available if the resulting trade would be more than five cents from the last sale; and (ii) during the process for completing certain NYSE Rule 127[4] transactions, the specialist should publish a bid and/or offer that is more than five cents away from the last reported transaction price in the subject security on the Exchange. The text of the proposed rule change is set forth below. Additions are in italics; deletion are in brackets.

* * * * *

Rule 1000: Automatic Execution of Limit Orders Against Orders Reflected in NYSE Published Quotation

Only straight limit orders without tick restrictions are eligible for entry as auto ex orders. Auto ex orders to buy shall be priced at or above the price of the published NYSE offer. Auto ex orders to sell shall be priced at or below the price of the NYSE bid. An auto ex order shall receive an immediate, automatic execution against orders reflected in the Exchange's published quotation and shall be immediately reported as NYSE transactions, unless:

(i) The NYSE's published quotation is in the non-firm quote mode;

(ii) [The NYSE's published quotation has been gapped for a brief period because of an influx of orders on one side of the market, and the NYSE's published quotation size is one hundred shares at the bid and/or offer;] *the execution price would be more than five cents away from the last reported transaction price in the subject security on the Exchange;*

(iii) With respect to a single-sided auto ex order, a better price exists in another ITS participating market center;

(iv) With respect to a single-sided auto ex order, the NYSE's published bid or offer is 100 shares;

(v) A transaction outside the NYSE's published bid or offer pursuant to Rule 127 is in the process of being completed, in which case the specialist should publish a [100-share] bid and/or offer[;] *that is more than five cents away from the last reported transaction price in the subject security on the Exchange;*

(vi) Trading in the subject security has been halted.

Auto ex orders that cannot be immediately executed shall be displayed as limit orders in the auction market.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Rules 1000–1005 provide for the automatic execution of limit orders of 1099 shares or less against the Exchange's disseminated bid or offer.[5] These executions of Direct+ orders are not available under unusual market conditions, or in situations when the Exchange's bid or offer is only 100 shares.

Direct+ executions automatically decrease the size of the NYSE bid or offer, which can result in a ''default'' bid or offer of 100 shares if the Direct+ executions have traded with all trading interest reflected in the Exchange's published bid or offer. This has the effect of rendering the automatic execution feature unavailable until the specialist can requote the market. In other very active trading situations, however, the specialist may quote a 100 share market because of transactions being priced in the auction, which also has the effect of making Direct+ unavailable and results in the Exchange's disseminated quotation not reflecting the actual depth of the NYSE market.

NYSE Rule 1000(ii)

The Exchange is proposing to amend Rule 1000(ii) to replace this provision with one that provides that Direct+ executions will not be available if the resulting trade would be more than five cents from the last sale. This would apply to any trade whether an auto-ex trade or a trade in the regular auction market. Any auto-ex order sent that would result in an execution more than five cents away from the last trade would be routed to the specialist as a SuperDOT limit order. The specialist would then represent that order as he or she would represent any other limit order received via the SuperDOT system.

For example, if the last sale in a stock is $20.10, and the current quote is $20.09 bid for 300 shares and 900 shares offered at $20.16, an auto-ex order to buy 500 shares (which would be executed at the offer price) would not be

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated January 23, 2003 (''Amendment No. 1''). Amendment No. 1 clarifies, and provides examples of, how the five cent standard would work; clarifies how limit orders received while a block transaction is pending would be handled; and explains how the Exchange determined that five cents is the appropriate level at which to disengage Direct+.

[4] Exchange Rule 127(b) describes the procedures for a member to follow who has a block of stock which he or she intends to cross at a specific clean-up price outside the current quotation.

[5] NYSE Direct+ was originally filed as a one-year pilot in SR–NYSE–2000–18, which was approved on December 22, 2000. *See* Securities Exchange Act Release No. 43767 (December 22, 2000), 66 FR 834 (January 4, 2001). The pilot was subsequently extended by SR–NYSE–2001–50 and SR–NYSE–2002–47. *See* Securities Exchange Act Release Nos. 45331 (January 24, 2002), 67 FR 5024 (February 1, 2002); 46906 (November 25, 2002), 67 FR 72260 (December 4, 2002), respectively. The pilot is currently due to expire on December 24, 2003.

automatically executed at $20.16 since it is more than five cents from the last trade at $20.10. It would be routed to the specialist as a limit order to buy at $20.16. The specialist would then bid on behalf of that order at $20.15 and execute it at $20.16 against the prevailing offer, or a broker in the crowd could offer to trade with the order at $20.15, offering price improvement to that order in the auction market.

Under the current provisions of Rule 1000, if the published quotation in a stock is gapped for a brief period of time, usually with one side or both of the quotation being set at 100 shares because of an influx of orders on one side of the market, or if the bid and/or offer size of the prevailing quotation is set at 100 shares, the Direct+ facility is not available. Under very active market conditions, the specialist may quote 100 shares bid or offered in order to allow trades in the auction market to be consummated without the last sale price being changed due to Direct+ executions. This, however, could result in the Exchange's disseminated quotation temporarily not reflecting the actual depth of the market for a stock as reflected by the dynamics of trading interest in the Crowd. If the Direct+ facility is not available in instances where the actual spread in a stock's quotation is greater than five cents, the specialist will be able to show the actual depth in the market. Of course, if the actual spread resulting from bids and offers on the specialist's book, or resulting from trading crowd interest results in a spread of less than five cents from the price of the last trade, the specialist must display these, and Direct+ orders will remain eligible for automatic execution.[6]

NYSE Rule 1000(v)

NYSE Rule 127 establishes procedures for executions outside the NYSE's published bid or offer. It requires a member seeking to cross block orders outside the prevailing quotation to inform the specialist of his or her intention to execute the transaction at a pre-determined, specific price (the ''clean-up'' price), either a premium or discount from the prevailing bid/offer. In this situation, the executing broker will be bidding and offering on behalf of the cross away from the prevailing quotation, to reflect the discount or premium from the current market.[7] Currently, Rule 1000(v) provides that auto ex orders will not be executed when an auction market transaction under Exchange Rule 127 is being completed, and in that instance, the specialist must publish a 100-share bid and/or offer.

The Exchange proposes to amend Rule 1000(v) to provide that the specialist (during the process for completing a Rule 127 transaction) should publish a bid and/or offer that is more than five cents away from the last reported transaction price (instead of a 100-share bid and/or offer) in the subject security on the Exchange. Any limit order that is received as the Rule 127 trade is being effected that would better the market represented by the broker's bid or offer on behalf of the NYSE Rule 127 cross trade would be included in the Rule 127 trade.[8] For example, assume that the last sale in XYZ is $10.27, and the current quote is $10.25 bid for 5000 shares and 5000 shares offered at $10.35. A proposed block transaction (Rule 127 trade) is about to be effected at the ''clean-up'' (discount price) of $10.15 for 50,000 shares. Under amended Rule 1000(v), the specialist would publish a bid that is more than five cents away from the last reported transaction price in order to turn off Direct+. The Rule 127 trade would be completed by the broker bidding $10.15 on behalf of the cross, and offering at $10.16. If, prior to the completion of the Rule 127 trade, a limit order to buy 500 shares at $10.20 was received by the specialist, he or she would represent that order to participate in the Rule 127 cross and receive an improved price. (Under Exchange Rule 79A.15, the requirement to display limit orders received by specialists does not apply to any customer limit order that is executed upon receipt of the order.)[9]

The five cent price parameter will give the specialist additional flexibility in disseminating the actual depth of the NYSE auction market, while still ensuring that Direct+ is available when there is sufficient liquidity at prices closely related to the last sale.[10]

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)of the Act [11] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1) of the Act [12] in that it seeks to assure economically efficient execution of securities transactions, make it practicable for brokers to execute investors' orders in the best market, and provide an opportunity for investors' orders to be executed without the participation of a dealer.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NYSE consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal, 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

[6] *See* Amendment No. 1, *supra* note 3.

[7] *Id.*

[8] *Id.*

[9] *Id.*

[10] According to the Exchange, a high percentage of executions in Direct+ occur within five cents of the last sale. *See* Amendment No. 1, *supra* note 3.

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78k–1(a)(1).

the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE organization.

All submissions should refer to File No. NYSE–2002–44 and should be submitted by February 26, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–2675 Filed 2–4–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47275; File No. SR–NYSE–2003–02]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Amendment to Rule 111

January 29, 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 8, 2003, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in items I, II, and III below, which items have been prepared by the Exchange. The 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 amend rule 111(a) to correct internal rule references. The references to other rules in rule 111 were not updated at the time rule 111 was reorganized.

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 self-regulatory organization 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 NYSE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently codified in the NYSE rule book several policies which had been previously filed with, and approved by, the Commission pursuant to rule 19b-4 and reorganized several other rules.[3]

When rule 111 was reorganized, three internal rule references were not updated to refer to the correct corresponding rule. The Exchange proposes to correct these references in rule 111(a) as follows.

- In rule 111(a), the reference that reports must include all transactions executed on orders initiated or originated for such accounts by a member while on the Floor and all transactions which are considered on-Floor trading is found under the provisions of rule 112(c), not 112(b) as stated.
- A competitive trader desiring to exempt neutral transactions for an account in which he or his member organization has an interest from consideration in the computation of his monthly stabilizing percentage is provided for under the provisions of rule 110(g)(2), not 112(d)(2); he must report the trade date, number of shares, and price of stock upon acquisition.
- In addition, rule 110(g)(1), not 112(d)(1), provides that a competitive trader must note with the symbol ''NL'' that the transaction was effected as part of the initial sale of a newly listed security.

2. Statutory Basis

The Exchange's basis under the Act for this proposed rule change is the requirement under section 6(b)(5) of the Act[4] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(iii) of the Act[5] and subparagraph (f)(3) of rule 19b–4 thereunder,[6] because it is concerned solely with the administration of the Exchange. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange.

All submissions should refer to the File No. SR–NYSE–2003–02 and should be submitted by February 26, 2003.

---

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 46579 (October 1, 2002), 67 FR 63004 (October 9, 2002) (SR–NYSE–2002–31).

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78s(b)(3)(A)(iii).

[6] 17 CFR 240.19b–4(f)(3).

[7] 17 CFR 200.30–(a)(12).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–2677 Filed 2–4–03; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

Region 4—Georgia District Advisory Council Public Meeting

The Georgia District Advisory Council (Georgia DAC) of the U.S. Small Business Administration will be conducting a meeting on Friday, February 7, 2002, 8:30–11:30 a.m. at the Hyatt Regency Savannah, 2 West Bay Street, Savannah, GA. The meeting is open to the public. Seating is limited and is available on a first come, first serve basis. The focus of the meeting will be on the future goals, activities, and operations of the Georgia DAC.

Anyone wishing further information concerning the meeting or who wishes to submit oral or written comments should contact Terri L. Denison, Designated Federal Official for the SBA's Georgia District Advisory Council, by phone at (404) 331–0100, ext. 212 or by e-mail at *terri.denison@sba.gov.* Requests for oral comments must be in writing to Ms. Denison and received no later than January 31, 2003.

The public is invited.

Candace Stoltz,

Director Advisory Councils.

[FR Doc. 03–2627 Filed 2–4–03; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATON

Statement of Organization, Functions and Delegations of Authority; Correction

AGENCY: Social Security Administration.

ACTION: Notice; correction.

SUMMARY: The Social Security Administration published a document in the **Federal Register** of January 15, 2003, amending Part S of the Statement of Organization, Functions and Delegations of Authority for the Social Security Administration. There are three additional changes that are needed.

Corrections

In the **Federal Register** of January 15, 2003, in FR Doc. 03–764, on page 2100, second column under Section S7C.10 The Office of Labor-Management and Employee Relations—(Organization), add the following:

The Office of Labor-Management and Employee Relations under the leadership of the Associate Commissioner, Office of Labor-Management and Employee Relations includes:

Retitle E. to The Center for Negotiations (S7CG).

Under Section S7C.20 The Office of Labor-Management and Employee Relations—(Functions) should read as follows:

Delete:

C., line 5, starting with ''The functions of the office include the following:'' and items 1 through 12.

Dated: January 30, 2003.

Don Putman,

Director, Center for Classification and Organization Management.

[FR Doc. 03–2662 Filed 2–4–03; 8:45 am]

BILLING CODE 4191–X–P

DEPARTMENT OF STATE

[Public Notice 4224]

Extension of Deadline for Nominations for the General Advisory Committee and the Scientific Advisory Subcommittee to the United States Section to the Inter-American Tropical Tuna Commission

SUMMARY: The Department of State is extending for a period of 60 days the deadline for applications and nominations for the renewal of the General Advisory Committee to the Inter-American Tropical Tuna Commission (IATTC), as well as to a Scientific Advisory Subcommittee of the General Advisory Committee, originally published November 12, 2002, in Department of State Public Notice number 4204, Volume 67, Number 218, Pages 68714–68716. The new deadline is March 14, 2003. The purpose of the General Advisory Committee and the Scientific Advisory Subcommittee is to provide public input and advice to the United States Section to the IATTC in the formulation of U.S. policy and positions at meetings of the IATTC and its subsidiary bodies. The Scientific Advisory Subcommittee shall also function as the National Scientific Advisory Committee (NATSAC) provided for in the Agreement on the International Dolphin Conservation Program (AIDCP). The United States Section to the IATTC is composed of the Commissioners to the IATTC and the Deputy Assistant Secretary of State for Ocean and Fisheries or his or her designated representative. Authority to establish the General Advisory Committee and Scientific Advisory Subcommittee is provided under the Tuna Conventions Act of 1950, as amended by the International Dolphin Conservation Program Act (IDCPA) of 1997.

DATES: Nominations must be submitted on or before March 14, 2003.

ADDRESSES: Nominations should be submitted to Mary Beth West, Deputy Assistant Secretary for Oceans and Fisheries, Bureau of Oceans and International Environmental and Scientific Affairs, Room 7831, Department of State, Washington, DC 20520–7818; or by fax to 202–736–7350.

FOR FURTHER INFORMATION CONTACT: David Hogan, Office of Marine Conservation, Department of State: 202–647–2335.

SUPPLEMENTARY INFORMATION:

General Advisory Committee

The Tuna Conventions Act (16 U.S.C. 951, *et seq.*), as amended by the IDCPA (Pub. L. 105–42) provides that the Secretary of State, in consultation with the U.S. Commissioners to the IATTC, shall appoint a General Advisory Committee (the Committee) to the U.S. Section to the IATTC (U.S. Section). The Committee shall be composed of not less than 5 nor more than 15 persons, with balanced representation from the various groups participating in the fisheries included under the IATTC Convention, and from non-governmental conservation organizations. The Committee shall be invited to have representatives attend all non-executive meetings of the U.S. Section, and shall be given full opportunity to examine and to be heard on all proposed programs of investigations, reports, recommendations, and regulations adopted by the Commission. Representatives of the Committee may attend meetings of the IATTC and the AIDCP as members of the U.S. delegation or otherwise in accordance with the rules of those bodies governing such participation. Participation as a member of the U.S. delegation shall be subject to such limits as may be placed on the size of the delegation.

Scientific Advisory Committee

The Act, as amended, also provides that the Secretary of State, in consultation with the U.S. Commissioners to the IATTC, shall appoint a Scientific Advisory Subcommittee (the Subcommittee) of the General Advisory Committee. The Subcommittee shall be composed of not less than 5 and not more than 15

qualified scientists with balanced representation from the public and private sectors, including non-governmental conservation organizations. The Subcommittee shall advise the Committee and the U.S. Section on matters including: The conservation of ecosystems; the sustainable uses of living marine resources related to the tuna fishery in the eastern Pacific Ocean; and the long-term conservation and management of stocks of living marine resources in the eastern tropical Pacific Ocean.

In addition, at the request of the Committee, the U.S. Commissioners or the Secretary of State, the Subcommittee shall perform such functions and provide such assistance as may be required by formal agreements entered into by the United States for the eastern Pacific tuna fishery, including the AIDCP. The functions may include: The review of data from the International Dolphin Conservation Program (IDCP), including data received from the IATTC staff; recommendations on research needs and the coordination and facilitation of such research; recommendations on scientific reviews and assessments required under the IDCP; recommendations with respect to measures to assure the regular and timely full exchange of data among the Parties to the AIDCP and each nation's NATSAC (or its equivalent); and consulting with other experts as needed.

The Subcommittee shall be invited to have representatives attend all non-executive meetings of the U.S. Section and the General Advisory Committee and shall be given full opportunity to examine and to be heard on all proposed programs of scientific investigation, scientific reports, and scientific recommendations of the Commission. Representatives of the Subcommittee may attend meetings of the IATTC and the AIDCP as members of the U.S. delegation or otherwise in accordance with the rules of those bodies governing such participation. Participation as a member of the U.S. delegation shall be subject to such limits as may be placed on the size of the delegation.

National Scientific Advisory Committee

The Scientific Advisory Subcommittee shall also function as the NATSAC established pursuant to Article IX of the AIDCP. In this regard, the Subcommittee shall perform the functions of the NATSAC as specified in Annex VI of the AIDCP including, but not limited to: Receiving and reviewing relevant data, including data provided to the National Marine Fisheries Service (NMFS) by the IATTC Staff; advising and recommending to the U.S. government measures and actions that should be undertaken to conserve and manage stocks of living marine resources in the AIDCP Area; making recommendations to the U.S. government regarding research needs related to the eastern Pacific Ocean tuna purse seine fishery; promoting the regular and timely full exchange of data among the Parties on a variety of matters related to the implementation of the AIDCP; and consulting with other experts as necessary in order to achieve the objectives of the Agreement.

General Provisions

Each appointed member of the Committee and the Subcommittee/NATSAC shall be appointed for a term of 3 years and may be reappointed.

Logistical and administrative support for the operation of the Committee and the Subcommittee will be provided by the Department of State, Bureau of Oceans and International Environmental and Scientific Affairs, and by the Department of Commerce, National Marine Fisheries Service. Members shall receive no compensation for their service on either the Committee or the Subcommittee/NATSAC, nor will members be compensated for travel or other expenses associated with their participation.

Procedures for Submitting Applications/Nominations

Applications/nominations for the General Advisory Committee and the Scientific Advisory Subcommittee/NATSAC should be submitted to the Department of State (See **ADDRESSES**). Such applications/nominations should include the following information:

(1) Full name/address/phone/fax and e-mail of applicant/nominee;

(2) Whether applying/nominating for the General Advisory Committee or the Scientific Advisory Committee/NATSAC (applicants may specify both);

(3) Applicant/nominee's organization or professional affiliation serving as the basis for the application/nomination;

(4) Background statement describing the applicant/nominee's qualifications and experience, especially as related to the tuna purse seine fishery in the eastern Pacific Ocean or other factors relevant to the implementation of the Convention Establishing the IATTC or the Agreement on the International Dolphin Conservation Program;

(5) A written statement from the applicant/nominee of intent to participate actively and in good faith in the meetings and activities of the General Advisory Committee and/or the Scientific Advisory Subcommittee/NATSAC.

Dated: January 30, 2003.

David A. Balton,

Acting Deputy Assistant Secretary for Oceans and Fisheries, Department of State.

[FR Doc. 03–2709 Filed 2–4–03; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice 4260]

Determination Pursuant to Section 1(b) of Executive Order 13224 Relating to Lashkar i Jhangvi

Acting under the authority of section 1(b) of Executive Order 13224 of September 23, 2001, and in consultation with the Secretary of the Treasury and the Attorney General, I hereby determine that Lashkar i Jhangvi (also spelled Lashkar e Jhangvi) has committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice need be provided to any person subject to this determination who might have a constitutional presence in the United States because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: January 21, 2003.

Colin L. Powell,

Secretary of State, Department of State.

[FR Doc. 03–2710 Filed 2–4–03; 8:45 am]

BILLING CODE 4710–10–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences; Import Statistics Relating to Competitive Need Limitations; Invitation for Public Comment

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice is to inform the public of interim 2002 import statistics

relating to Competitive Need Limitations (CNL) under the Generalized System of Preferences (GSP) program. Public comments are invited by 5 p.m., February 21, 2003, regarding possible *de minimis* CNL waivers with respect to particular articles, and possible redesignations under the GSP program of articles currently subject to CNLs.

FOR FURTHER INFORMATION CONTACT: Contact the GSP Subcommittee, Office of the United States Trade Representative (USTR), 1724 F Street, NW., Room F–220, Washington, DC 20508. The telephone number is (202) 395–6971 and the facsimile number is (202) 395–9481.

SUPPLEMENTARY INFORMATION:

I. Competitive Need Limitations

The GSP program provides for the duty-free importation of designated articles when imported from designated beneficiary developing countries. The GSP program is authorized by title V of the Trade Act of 1974 (19 U.S.C. 2461, *et seq.*), as amended (the ''1974 Act''), and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations. Section 503(c)(2)(A) of the 1974 Act, as amended (19 U.S.C. 2463(c)(2)(A)), provides for CNLs on duty-free treatment under the GSP program. When the President determines that a beneficiary developing country exported to the United States during a calendar year either (1) a quantity of a GSP-eligible article having a value in excess of the applicable amount for that year ($105 million for 2002), or (2) a quantity of a GSP-eligible article having a value equal to or greater than 50 percent of the value of total U.S. imports of the article from all countries (the ''50 percent'' CNL), the President shall terminate GSP duty-free treatment for that article from that beneficiary developing country by no later than July 1 of the next calendar year.

II. Discretionary Decisions

A. De Minimis Waivers

Section 503(c)(2)(F) of the 1974 Act (19 U.S.C. 2463(c)(2)(F)) provides the President with discretion to waive the 50 percent CNL with respect to an eligible article imported from a beneficiary developing country if the value of total imports of that article from all countries during the calendar year did not exceed the applicable amount for that year ($16 million for 2002).

B. Redesignation of Eligible Articles

Where imports of an eligible article from a beneficiary developing country ceased to receive duty-free treatment due to exceeding the CNL in a prior year, section 503(c)(2)(C) of the 1974 Act (19 U.S.C. 2463(c)(2)(C)) provides the President with discretion to redesignate such an article for duty-free treatment if imports in the most recently completed calendar year did not exceed the CNLs.

III. Implementation of Competitive Need Limitations, Waivers, and Redesignations

Exclusions from GSP duty-free treatment where CNLs have been exceeded will be effective July 1, 2003. Decisions on these matters, as well as decisions with respect to *de minimis* waivers and redesignations, will be based on full 2002 calendar year import statistics.

IV. Interim 2002 Import Statistics

In order to provide advance notice of articles that may exceed the CNLs for 2002, and to afford an earlier opportunity for comment regarding possible *de minimis* waivers and redesignations, interim import statistics covering the first 10 months of 2002 are included with this notice.

The following lists contain, for each article, the Harmonized Tariff Schedule of the United States (HTS) number and beneficiary country of origin, the value of imports of such article for the first ten months of 2002, and the percentage of total imports of that product from all countries. The flags indicate the status of GSP eligibility. Articles marked with an ''*'' are those that have been excluded from GSP eligibility for the entire past calendar year. Articles marked with a ''D'' are those that, based on interim 2002 data, may be eligible for a *de minimis* waiver of the 50 percent CNL.

List I shows GSP-eligible articles from beneficiary developing countries that have already exceeded the CNL of $105 million in 2002. Those articles without a flag are articles that were GSP-eligible during 2002 but stand to lose GSP duty-free treatment on July 1, 2003, unless a waiver is granted. Such waivers are required to have been requested in the 2002 GSP Annual Review.

List II shows GSP-eligible articles from beneficiary developing countries that (1) have not yet exceeded, but are approaching, the $105 million CNL for the period from January through October 2002, or (2) are close to or above the 50 percent CNL. Depending on final calendar year 2002 import data, these products also stand to lose GSP duty-free treatment on July 1, 2003, unless a waiver is granted. Such waivers are required to have been requested in the 2002 GSP Annual Review.

List III is a subset of List II. List III identifies GSP-eligible articles from beneficiary developing countries that are near or above the 50 percent CNL, but that may be eligible for a *de minimis* waiver of the 50 percent CNL. Actual eligibility for *de minimis* waivers will depend on final calendar year 2002 import data. Each year, *de minimis* waivers are considered automatically and public comments are accepted.

List IV shows GSP-eligible articles that are currently not receiving GSP duty-free treatment, but that have import levels (based on interim 2002 data) below the CNLs and thus may be eligible for redesignation pursuant to the President's discretionary authority. Articles with a ''D'' exceed the 50 percent CNL and would require both a *de minimis* waiver and redesignation to receive GSP duty-free treatment. The list may contain articles that may not be redesignated until certain conditions are fulfilled, as where, for example, GSP eligibility for an article was administratively suspended because of deficiencies in a country's protection of worker or intellectual property rights. Redesignation requests are normally made in the annual review, unless made in conjunction with remedying the deficiencies.

The lists appended to this notice are provided for informational purposes only. The attached lists are computer-generated and based on interim 2002 data, and may not include all articles that may be affected by the GSP CNLs. Regardless of whether or not an article is included on the lists, all determinations and decisions regarding the CNLs of the GSP program will be based on full calendar year 2002 import data with respect to each GSP-eligible article. Each interested party is advised to conduct its own review of 2002 import data with regard to the possible application of GSP CNLs.

IV. Public Comments

Requirements for Submissions

All submissions must conform to the GSP regulations set forth at 15 CFR Part 2007, except as modified below. These regulations are also included in ''A Guide to the U.S. Generalized System of Preferences (GSP)'' (May 1999) (''GSP Guidebook''), available at *www.ustr.gov.* Furthermore, each party providing comments should indicate on the first page of the submission its name, the relevant HTS subheading(s), the

beneficiary country or territory of interest, and the type of action (*e.g.*, the use of the President's *de minimis* waiver authority, etc.) in which the party is interested.

Comments must be submitted, in English, to the Chairman of the GSP Subcommittee of the Trade Policy Committee (TPSC) as soon as possible but not later than 5 p.m on February 21, 2003. Comments submitted after this date may be considered at the discretion of the GSP Subcommittee until the time its advice is provided to the TPSC.

Submissions in response to this notice will be subject to public inspection by appointment with the staff of the USTR Public Reading Room, except for information granted ''business confidential'' status pursuant to 15 CFR 2003.6.

If the submission contains business confidential information, a non-confidential version of the submission must also be submitted that indicates where confidential information was redacted by inserting asterisks where material was deleted. In addition, the confidential submission must be clearly marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of each and every page of the document. The public version which does not contain business confidential information must also be clearly marked at the top and bottom of each and every page (either ''PUBLIC VERSION'' or ''NON-CONFIDENTIAL'').

In order to facilitate prompt consideration of submissions, USTR strongly urges and prefers electronic e-mail submissions in response to this notice. In the event that an e-mail submission is impossible, submissions should be made by facsimile. These submissions should be single copy transmissions in English with the total submission not to exceed 50 single-spaced pages and 3 megabytes as a digital file attached to an e-mail transmission. Persons making submissions by e-mail should use the following subject line: ''Comments on 2002 CNL Review'' Documents must be submitted as either WordPerfect (''.WPD''), MSWord (''.DOC''), or text (''.TXT'') files. Documents should not be submitted as electronic image files or contain imbedded images (for example, ''.JPG'', ''PDF'', ''.BMP'', or ''.GIF'') as such files are generally excessively large. E-mail submissions containing such files may not be accepted. Supporting documentation submitted as spreadsheets are acceptable as Quattro Pro or Excel, pre-formatted for printing on 8½ x 11 inch paper. To the extent possible, any data attachments to the submission should be included in the same file as the submission itself, and not as separate files. Facsimile submissions should include, among other identifying information specified in the regulations, the following information at the top of the first page: ''Comments on 2002 CNL Review.''

For any document containing business confidential information submitted as an electronic attached file to an e-mail transmission, the file name of the business confidential version should begin with the characters ''BC-'', and the file name of the public version should begin with the characters ''P-''. The ''P-'' or ''BC-'' should be followed by the name of the party (government, company, union, association, etc.) which is submitting the petition.

Parties who make submissions by e-mail should not provide separate cover letters or messages in the message area of the e-mail; information that might appear in any cover letter should be included directly in the attached file containing the submission itself. The e-mail address for these submissions is *FR0052@ustr.gov*.

Public versions of all documents relating to this review will be available for review approximately three weeks after the due date by appointment in the USTR Public Reading Room, 1724 F Street NW., Washington, DC. Availability of documents may be ascertained, and appointments may be made from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, by calling (202) 395–6186.

Steven Falken,

Executive Director for GSP, Chairman, GSP Subcommittee.

BILLING CODE 3190–01–P

LIST I : ITEMS GRADUATED OR EXCEEDING COMPETITIVE NEED LIMITS
2002 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE	DESCRIPTION
*	2402.10.80	Dominican Republic..	136,330,379	67.9%	Cigars, cheroots and cigarillos containing tobacco, each valued 23 cen
*	2905.11.20	Trinidad and Tobago.	181,829,834	37.0%	Methanol (Methyl alcohol), other than imported only for use in produci
*	7113.11.50	Thailand.....	123,706,633	25.5%	Silver articles of jewelry and parts thereof, nesoi, valued over $18 p
*	7113.19.50	Dominican Republic..	156,501,565	4.5%	Precious metal (o/than silver) articles of jewelry and parts thereo, w
*	7403.11.00	Peru.....	363,029,717	31.7%	Refined copper cathodes and sections of cathodes
*	7403.11.00	Chile.....	286,073,382	25.0%	Refined copper cathodes and sections of cathodes
*	8408.20.20	Brazil.....	135,681,692	42.8%	Compression-ignition internal-combustion piston engines to be installe
	8525.40.80	Indonesia.....	144,150,434	7.8%	Still image video cameras (other than digital) and other video camera
	8528.12.28	Thailand.....	137,959,286	35.9%	Non-high definition color television reception app., nonprojection, w/
*	8544.30.00	Thailand.....	140,325,097	3.1%	Insulated ignition wiring sets and other wiring sets of a kind used in

FLAGS: '*'=Excluded full yr; '1'=Excluded January/June; '2'=Excluded July/December

LIST II : ITEMS APPROACHING COMPETITIVE NEED LIMITS
2002 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE	DESCRIPTION
D	0305.69.60	Philippines	297,625	60.1%	Fish, nesi, in brine or salted but not dried or smoked, other than in
D	0306.14.20	Chile	4,031,340	47.2%	Crabmeat, frozen
D	0405.20.80	Poland	25,180	72.7%	Other dairy spreads, not butter substitutes or of a type provided for
D	0410.00.00	Indonesia	7,557,586	65.2%	Edible products of animal origin, nesi
D	0705.29.00	Chile	1,674,771	48.2%	Chicory, other than witloof chicory, fresh or chilled
D	0710.22.10	India	89,543	43.5%	Lima beans, uncooked or cooked by steaming or boiling in water, frozen
D	0710.22.15	India	48,463	43.2%	Lima beans, frozen, entered June 1 - October 31
D	0710.29.15	India	115,036	96.7%	Lentils, uncooked or cooked by steaming or boiling in water, frozen
D	0710.80.50	Ecuador	7,965	55.6%	Tomatoes, uncooked or cooked by steaming or boiling in water, frozen,
D	0711.40.00	India	2,525,545	71.8%	Cucumbers including gherkins, provisionally preserved but unsuitable i
D	0712.90.70	Egypt	379,410	75.6%	Dried fennel, marjoram, savory and tarragon nesi, whole, cut, sliced,
D	0714.20.10	India	38,422	57.2%	Sweet potatoes, frozen, whether or not sliced or in the form of pellet
	0714.90.20	Jamaica	8,241,607	42.3%	Fresh or chilled yams, whether or not sliced or in the form of pellets
D	0802.31.00	Turkey	19,947	65.9%	Walnuts, fresh or dried, in shell
D	0802.50.20	Turkey	445,235	72.4%	Pistachios, fresh or dried, in shell
D	0802.50.40	Turkey	93,388	42.9%	Pistachios, fresh or dried, shelled
D	0802.90.20	Pakistan	25,425	100.0%	Pignolias, fresh or dried, in shell
D	0804.50.80	Philippines	4,754,661	52.6%	Guavas, mangoes, and mangosteens, dried
D	0810.60.00	Thailand	389,166	100.0%	Durians, fresh
D	0811.20.40	Chile	506,101	42.5%	Blackberries, mulberries and white or red currants, frozen, in water o
D	0813.30.00	Chile	5,443,082	77.4%	Apples, dried
D	0813.40.10	Thailand	1,548,773	97.1%	Papayas, dried
	0813.40.20	Poland	10,146,768	50.3%	Berries except barberries, dried
	0904.20.76	India	7,445,917	45.8%	Fruits of the genus capsicum, ground, nesoi
D	1007.00.00	Chile	4,739	48.6%	Grain sorghum
D	1102.30.00	Thailand	2,089,733	46.6%	Rice flour
D	1104.23.00	El Salvador	79,883	43.6%	Grains of corn (maize), hulled, pearled, clipped, sliced, kibbled or o
D	1212.99.10	Brazil	31,928	51.3%	Sugar cane, fresh, chilled, frozen or dried, whether or not ground
D	1301.90.40	Brazil	42,800	82.3%	Turpentine gum (oleoresinous exudate from living trees)
	1602.50.09	Brazil	17,235,088	74.3%	Prepared or preserved meat of bovine animals, cured or pickled, not co
D	1604.15.00	Chile	5,595,698	53.4%	Prepared or preserved mackerel, whole or in pieces, but not minced
D	1605.90.10	Thailand	3,475,376	62.2%	Boiled clams in immediate airtight containers, the contents of which d
D	1605.90.55	Indonesia	1,097,532	54.2%	Prepared or preserved snails, other than sea snails
D	1702.90.35	Brazil	2,676,599	58.2%	Invert molasses
D	1703.90.30	India	32,600	46.9%	Molasses, other than cane, imported for (a) the commercial extraction
	1703.90.50	Dominican Republic	10,605,134	64.2%	Molasses nesi
D	1806.10.22	Indonesia	3,266	100.0%	Cocoa powder, o/65% but less than 90% by dry wt of sugar, subject to g
D	1806.10.43	Brazil	2,005	46.3%	Cocoa powder, o/90% by dry wt of sugar, subject to gen. note 15 of the
D	1806.32.55	Dominican Republic	74,964	68.0%	Cocoa preps, not filled, in blocks, slabs or bars weighing 2 kg or les
D	1901.20.02	Colombia	4,464	100.0%	Mixes for bakers wares, o/25% butterfat, not retail, subject to gen. n
D	1901.20.45	Argentina	2,565	100.0%	Mixes for bakers wares (dairy prod. of Ch4 US note 1), n/o 25% bf, not
D	1901.90.28	Poland	333,006	66.7%	Dry mix. w/less than 31% bf & 17.5% or more sodium caseinate, bf, whey
D	2007.99.40	Poland	66,866	42.8%	Pineapple jam
D	2008.99.35	Thailand	2,803,235	85.4%	Lychees and longans, otherwise prepared or preserved, nesi
D	2008.99.45	Philippines	119,224	82.1%	Papaya pulp, otherwise prepared or preserved, nesi
D	2008.99.50	Thailand	1,228,926	50.0%	Papayas, other than pulp, otherwise prepared or preserved, nesi
D	2208.90.80	Guyana	619,812	43.3%	Undenatured ethyl alcohol of an alcoholic strength by volume of less t
D	2306.30.00	Argentina	2,152,625	100.0%	Oilcake and other solid residues, resulting from the extraction of veg
D	2403.91.20	Dominican Republic	7,922	100.0%	"Homogenized" or "reconstituted" tobacco suitable for use as wrapper t
D	2515.12.20	Turkey	1,903,190	64.5%	Travertine, merely cut into blocks or slabs of a rectangular (includin
D	2804.29.00	Russia	7,989,520	66.9%	Rare gases, other than argon

FLAGS: '1'=Excluded January/June; 'D'=De minimis;

LIST II : ITEMS APPROACHING COMPETITIVE NEED LIMITS
2002 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE	DESCRIPTION
D	2825.70.00	Chile	2,288,649	42.3%	Molybdenum oxides and hydroxides
D	2840.11.00	Turkey	93,572	100.0%	Anhydrous disodium tetraborate (refined borax)
D	2840.19.00	Turkey	1,459,551	99.1%	Disodium tetraborate (refined borax) except anhydrous
D	2841.61.00	Czech Republic	1,118,614	49.1%	Potassium permanganate
D	2841.90.20	Kazakhstan	1,403,528	49.3%	Ammonium perrhenate
D	2903.51.00	Romania	450,575	100.0%	1,2,3,4,5,6-Hexachlorocyclohexane
	2905.11.20	Chile	100,525,623	20.4%	Methanol (Methyl alcohol), other than imported only for use in produci
D	2908.10.15	Hungary	763,716	100.0%	3-Hydroxy-alpha,alpha,alpha-trifluorotoluene
D	2909.50.40	Indonesia	2,463,454	52.1%	Odoriferous or flavoring compounds of ether-phenols, ether-alcohol-phe
D	2915.35.00	Russia	11,818	52.1%	2-Ethoxyethyl acetate (Ethylene glycol, monoethyl ether acetate)
D	2917.19.10	Hungary	1,575,502	77.6%	Ferrous fumarate
D	2917.32.00	Indonesia	5,266,004	71.1%	Dioctyl orthophthalates
D	2918.21.10	Brazil	4,850,932	76.1%	Salicylic acid and its salts, suitable for medicinal use
D	2931.00.25	Brazil	1,065,539	100.0%	Pesticides of aromatic organo-inorganic (except organo-sulfur) compoun
D	2933.49.30	Brazil	3,910,468	70.3%	Pesticides of heterocyclic compounds with nitrogen hetero-atom(s) only
D	2934.20.05	Brazil	97,750	53.5%	N-tert-Butyl-2-benzothiazolesulfenamide
D	2938.10.00	Brazil	1,014,465	74.2%	Rutoside (Rutin) and its derivatives
D	3815.90.10	Panama	180,740	88.6%	Reaction initiators, reaction accelerators and catalytic preparations,
	3823.19.20	Philippines	13,369,892	56.3%	Industrial monocarboxylic fatty acids or acid oils from refining deriv
D	3926.90.56	India	12,103	50.6%	Belting and belts (except V-belts) for machinery, of plastics, contain
D	4010.12.10	Hungary	1,696,574	78.3%	Conveyor belts or belting of vulcanized rubber reinforced only with te
D	4012.11.80	India	503,699	59.6%	Retreaded pneumatic tires (nonradials), of rubber, of a kind used on m
D	4101.90.35	Brazil	791	100.0%	Raw buffalo hides and skins (other than whole), pretanned but not furt
D	4104.19.30	Brazil	202,139	66.0%	Buffalo hides and skins nesoi, w/o hair on, unit surface area ov 2.6 m
D	4106.21.10	Peru	37,202	77.1%	Hides and skins of goats or kids, without hair on, tanned but not furt
D	4106.21.90	India	935,258	43.6%	Hides and skins of goats or kids, without hair on, tanned but not furt
D	4107.11.60	Brazil	689,711	47.9%	Full grain unsplit upper & sole leather of bovines (not buffalo) nesoi
D	4107.12.60	Colombia	235,855	53.8%	Grain split whole upper & sole leather of bovines (not buffalo) nesoi
D	4107.19.40	India	13,088	97.3%	Whole buffalo skin leather (not full grain unsplits/grain splits), w/o
D	4107.91.40	India	107,221	81.9%	Full grain unsplit buffalo leather (not whole), w/o hair on, prepared
D	4107.92.40	Pakistan	1,260	100.0%	Grain splits buffalo leather (not whole), without hair on, prepared af
D	4107.99.60	Colombia	219,937	51.6%	Upper & sole leather of bovines (not buffalo) or equines, not whole, n
D	4202.22.35	Philippines	27,758	50.3%	Handbags with or without shoulder strap or without handle, with outer
D	4302.20.90	Argentina	559,986	46.0%	Heads, tails, paws and other pieces or cuttings of dressed or tanned f
D	4412.13.25	Brazil	2,549,346	92.4%	Plywood sheet n/o 6 mm thick,tropical hard wood outer ply, face ply of
D	4412.14.25	Brazil	3,892,132	90.0%	Plywood sheet n/o 6 mm thick,outer ply of nontropical hardwood,face pl
D	4412.19.30	Russia	159,491	74.4%	Plywood of wood sheets, n/o 6 mm thick each, with outer plies of conif
D	4412.99.46	Chile	509,660	45.8%	Plywood nesoi, softwood outer plies, no trop. hard wood ply, no partic
D	4602.10.23	Indonesia	5,611	43.6%	Articles of a kind normally carried in the pocket or in the handbag, o
D	4802.54.10	Brazil	2,664,576	63.2%	Writing paper, weigh < 40 g/m2, cont. n/o 10% total fiber content by a
D	4802.54.20	Indonesia	3,708,356	84.3%	India & bible paper, weigh < 40 g/m2, n/o 10% total fiber content by a
D	4802.55.20	Indonesia	1,792,678	46.2%	Drawing paper, wt 40 g/m2 -150 g/m2, n/o 10% total fiber content by me
D	4802.56.60	Colombia	74,618	68.6%	Other basic paper be sensitized use in photography, wt. 40g/m2-150g/m2
D	4802.57.10	Brazil	3,949,648	50.5%	Writing/cover paper, wt 40 g/m2-150 g/m2, cont. n/o 10% by weight tota
D	4802.57.20	Indonesia	172,566	95.5%	Drawing paper, wt 40 g/m2 to 150 g/m2, cont. n/o 10% by weight total f
D	4810.14.11	Thailand	524,176	43.9%	Basic paper be sensitized for photography, coated w/inorganic, n/o 150
	4816.20.00	Indonesia	15,186,310	88.9%	Self-copy paper, nesi
D	5007.10.30	India	884,828	44.8%	Woven fabrics of noil silk, containing 85 percent or more by weight of
D	5007.90.30	India	2,235,198	42.6%	Woven silk fabrics, containing 85 percent or more by weight of silk or
D	5208.31.20	India	236,557	83.2%	Dyed plain weave certified hand-loomed fabrics of cotton, containing 8
D	5208.32.10	India	99,509	93.5%	Dyed plain weave certified hand-loomed fabrics of cotton, cont. 85% or

FLAGS: '1'=Excluded January/June; 'D'=De minimis;

LIST II : ITEMS APPROACHING COMPETITIVE NEED LIMITS
2002 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE	DESCRIPTION
D	5208.41.20	India	376,067	96.8%	Plain weave certified hand-loomed fabrics of cotton, 85% or more cotto
D	5208.42.10	India	276,718	87.6%	Plain weave certified hand-loomed fabrics of cotton, 85% or more cotto
D	5209.31.30	India	2,066,486	99.3%	Dyed, plain weave certified hand-loomed fabrics of cotton, containing
D	5209.41.30	India	1,761,502	97.0%	Plain weave certified hand-loomed fabrics of cotton, cont. 85% or more
D	5607.10.00	Thailand	751,237	44.6%	Twine, cordage, rope and cables, of jute or other textile bast fibers
D	5607.90.35	Philippines	2,090,669	56.7%	Twine, cordage, rope & cables of abaca or other hard (leaf) fibers, ot
D	5702.39.10	India	620,470	90.4%	Carpets and other textile floor coverings of pile construction, woven,
D	5702.49.15	India	1,051,845	57.8%	Carpets and other textile floor coverings of pile construction, woven,
D	5702.99.20	India	12,466,738	87.8%	Carpets & other textile floor coverings, not of pile construction, wov
D	6116.99.35	Philippines	306,209	64.9%	Gloves, mittens & mitts specially designed for sports, including ski a
D	6406.10.85	India	11,000	96.3%	Uppers for footwear, nesoi, of materials nesoi, w/external surface are
D	6501.00.60	Ecuador	20,251	85.7%	Hat forms, hat bodies and hoods, not blocked to shape or with made bri
	6802.91.25	Turkey	60,265,096	44.9%	Monumental or building stone & arts. thereof, of travertine, further w
	6802.93.00	Brazil	90,812,046	22.2%	Monumental or building stone & arts. thereof, of granite, further work
	7106.92.50	Brazil	19,298,434	61.3%	Silver (including silver plated with gold or platinum), in semimanufac
	7113.19.25	Turkey	47,187,298	60.4%	Gold mixed link necklaces and neck chains
D	7113.20.25	India	105,962	42.0%	Base metal clad w/gold mixed link necklaces and neck chains
D	7114.19.00	India	794,215	50.6%	Precious metal (o/than silver) articles, nesoi, whether or not plated
	7202.41.00	Kazakhstan	31,382,439	48.0%	Ferrochromium containing by weight more than 4 percent of carbon
	7202.49.50	Russia	9,465,269	42.3%	Ferrochromium containing by weight 3 percent or less of carbon
D	7202.50.00	Kazakhstan	8,107,096	97.2%	Ferrosilicon chromium
D	7505.11.50	Zimbabwe (Rhodesia)	2,970	100.0%	Nickel (o/than alloy), profiles
	7604.10.30	Russia	21,017,969	50.5%	Aluminum (o/than alloy), bar and rods, with a round cross section
D	7614.10.50	Ecuador	153,956	76.9%	Aluminum, stranded wire, cables & the like w/steel core, not electrica
	7906.00.00	India	10,662,113	45.0%	Zinc, tubes or pipes and fittings for tubes or pipes
D	8112.92.50	Chile	8,590,778	97.8%	Rhenium, unwrought; rhenium powders
D	8459.10.00	Turkey	500,000	79.1%	Way-type unit head machines for drilling, boring, milling, threading o
D	8514.20.40	Thailand	1,543,158	60.2%	Industrial or laboratory microwave ovens for making hot drinks or for
	8543.90.68	Brazil	23,246,075	45.9%	Printed circuit assemblies of electrical machines and apparatus, havin
D	8546.10.00	Brazil	407,784	63.7%	Electrical insulators of glass
	9001.30.00	Indonesia	101,087,389	46.2%	Contact lenses
D	9305.10.40	Peru	15,265	100.0%	Parts and accessories nesoi, for revolvers or pistols designed to fire
D	9614.20.60	Turkey	32,143	53.2%	Smoking pipes and bowls, wholly of clay, and other smoking pipes w/bow

FLAGS: '1'=Excluded January/June; 'D'=De minimis;

LIST III : POSSIBLE de MINIMIS ITEMS
2002 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE	DESCRIPTION
D	0305.69.60	Philippines	297,625	60.1%	Fish, nesi, in brine or salted but not dried or smoked, other than in
D	0306.14.20	Chile	4,031,340	47.2%	Crabmeat, frozen
D	0405.20.80	Poland	25,180	72.7%	Other dairy spreads, not butter substitutes or of a type provided for
D	0410.00.00	Indonesia	7,557,586	65.2%	Edible products of animal origin, nesi
D	0705.29.00	Chile	1,674,771	48.2%	Chicory, other than witloof chicory, fresh or chilled
D	0710.22.10	India	89,543	43.5%	Lima beans, uncooked or cooked by steaming or boiling in water, frozen
D	0710.22.15	India	48,463	43.2%	Lima beans, frozen, entered June 1 - October 31
D	0710.29.15	India	115,036	96.7%	Lentils, uncooked or cooked by steaming or boiling in water, frozen
D	0710.80.50	Ecuador	7,965	55.6%	Tomatoes, uncooked or cooked by steaming or boiling in water, frozen,
D	0711.40.00	India	2,525,545	71.8%	Cucumbers including gherkins, provisionally preserved but unsuitable i
D	0712.90.70	Egypt	379,410	75.6%	Dried fennel, marjoram, savory and tarragon nesi, whole, cut, sliced,
D	0714.20.10	India	38,422	57.2%	Sweet potatoes, frozen, whether or not sliced or in the form of pellet
D	0802.31.00	Turkey	19,947	65.9%	Walnuts, fresh or dried, in shell
D	0802.50.20	Turkey	445,235	72.4%	Pistachios, fresh or dried, in shell
D	0802.50.40	Turkey	93,388	42.9%	Pistachios, fresh or dried, shelled
D	0802.90.20	Pakistan	25,425	100.0%	Pignolias, fresh or dried, in shell
D	0804.50.80	Philippines	4,754,661	52.6%	Guavas, mangoes, and mangosteens, dried
D	0810.60.00	Thailand	389,166	100.0%	Durians, fresh
D	0811.20.40	Chile	506,101	42.5%	Blackberries, mulberries and white or red currants, frozen, in water o
D	0813.30.00	Chile	5,443,082	77.4%	Apples, dried
D	0813.40.10	Thailand	1,548,773	97.1%	Papayas, dried
D	1007.00.00	Chile	4,739	48.6%	Grain sorghum
D	1102.30.00	Thailand	2,089,733	46.6%	Rice flour
D	1104.23.00	El Salvador	79,883	43.6%	Grains of corn (maize), hulled, pearled, clipped, sliced, kibbled or o
D	1212.99.10	Brazil	31,928	51.3%	Sugar cane, fresh, chilled, frozen or dried, whether or not ground
D	1301.90.40	Brazil	42,800	82.3%	Turpentine gum (oleoresinous exudate from living trees)
D	1604.15.00	Chile	5,595,698	53.4%	Prepared or preserved mackerel, whole or in pieces, but not minced
D	1605.90.10	Thailand	3,475,376	62.2%	Boiled clams in immediate airtight containers, the contents of which d
D	1605.90.55	Indonesia	1,097,532	54.2%	Prepared or preserved snails, other than sea snails
D	1702.90.35	Brazil	2,676,599	58.2%	Invert molasses
D	1703.90.30	India	32,600	46.9%	Molasses, other than cane, imported for (a) the commercial extraction
D	1806.10.22	Indonesia	3,266	100.0%	Cocoa powder, o/65% but less than 90% by dry wt of sugar, subject to g
D	1806.10.43	Brazil	2,005	46.3%	Cocoa powder, o/90% by dry wt of sugar, subject to gen. note 15 of the
D	1806.32.55	Dominican Republic	74,964	68.0%	Cocoa preps, not filled, in blocks, slabs or bars weighing 2 kg or les
D	1901.20.02	Colombia	4,464	100.0%	Mixes for bakers wares, o/25% butterfat, not retail, subject to gen. n
D	1901.20.45	Argentina	2,565	100.0%	Mixes for bakers wares (dairy prod. of Ch4 US note 1), n/o 25% bf, not
D	1901.90.28	Poland	333,006	66.7%	Dry mix. w/less than 31% bf & 17.5% or more sodium caseinate, bf, whey
D	2007.99.40	Poland	66,866	42.8%	Pineapple jam
D	2008.99.35	Thailand	2,803,235	85.4%	Lychees and longans, otherwise prepared or preserved, nesi
D	2008.99.45	Philippines	119,224	82.1%	Papaya pulp, otherwise prepared or preserved, nesi
D	2008.99.50	Thailand	1,228,926	50.0%	Papayas, other than pulp, otherwise prepared or preserved, nesi
D	2208.90.80	Guyana	619,812	43.3%	Undenatured ethyl alcohol of an alcoholic strength by volume of less t
D	2306.30.00	Argentina	2,152,625	100.0%	Oilcake and other solid residues, resulting from the extraction of veg
D	2403.91.20	Dominican Republic	7,922	100.0%	"Homogenized" or "reconstituted" tobacco suitable for use as wrapper t
D	2515.12.20	Turkey	1,903,190	64.5%	Travertine, merely cut into blocks or slabs of a rectangular (includin
D	2804.29.00	Russia	7,989,520	66.9%	Rare gases, other than argon
D	2825.70.00	Chile	2,288,649	42.3%	Molybdenum oxides and hydroxides
D	2840.11.00	Turkey	93,572	100.0%	Anhydrous disodium tetraborate (refined borax)
D	2840.19.00	Turkey	1,459,551	99.1%	Disodium tetraborate (refined borax) except anhydrous
D	2841.61.00	Czech Republic	1,118,614	49.1%	Potassium permanganate
D	2841.90.20	Kazakhstan	1,403,528	49.3%	Ammonium perrhenate

FLAGS: '1'=Excluded January/June; 'D'=De minimis;

LIST III : POSSIBLE de MINIMIS ITEMS
2002 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE	DESCRIPTION
D	2903.51.00	Romania	450,575	100.0%	1,2,3,4,5,6-Hexachlorocyclohexane
D	2908.10.15	Hungary	763,716	100.0%	3-Hydroxy-alpha,alpha,alpha-trifluorotoluene
D	2909.50.40	Indonesia	2,463,454	52.1%	Odoriferous or flavoring compounds of ether-phenols, ether-alcohol-phe
D	2915.35.00	Russia	11,818	52.1%	2-Ethoxyethyl acetate (Ethylene glycol, monoethyl ether acetate)
D	2917.19.10	Hungary	1,575,502	77.6%	Ferrous fumarate
D	2917.32.00	Indonesia	5,266,004	71.1%	Dioctyl orthophthalates
D	2918.21.10	Brazil	4,850,932	76.1%	Salicylic acid and its salts, suitable for medicinal use
D	2931.00.25	Brazil	1,065,539	100.0%	Pesticides of aromatic organo-inorganic (except organo-sulfur) compoun
D	2933.49.30	Brazil	3,910,468	70.3%	Pesticides of heterocyclic compounds with nitrogen hetero-atom(s) only
D	2934.20.05	Brazil	97,750	53.5%	N-tert-Butyl-2-benzothiazolesulfenamide
D	2938.10.00	Brazil	1,014,465	74.2%	Rutoside (Rutin) and its derivatives
D	3815.90.10	Panama	180,740	88.6%	Reaction initiators, reaction accelerators and catalytic preparations,
D	3926.90.56	India	12,103	50.6%	Belting and belts (except V-belts) for machinery, of plastics, contain
D	4010.12.10	Hungary	1,696,574	78.3%	Conveyor belts or belting of vulcanized rubber reinforced only with te
D	4012.11.80	India	503,699	59.6%	Retreaded pnuematic tires (nonradials), of rubber, of a kind used on m
D	4101.90.35	Brazil	791	100.0%	Raw buffalo hides and skins (other than whole), pretanned but not furt
D	4104.19.30	Brazil	202,139	66.0%	Buffalo hides and skins nesoi, w/o hair on, unit surface area ov 2.6 m
D	4106.21.10	Peru	37,202	77.1%	Hides and skins of goats or kids, without hair on, tanned but not furt
D	4106.21.90	India	935,258	43.6%	Hides and skins of goats or kids, without hair on, tanned but not furt
D	4107.11.60	Brazil	689,711	47.9%	Full grain unsplit upper & sole leather of bovines (not buffalo) nesoi
D	4107.12.60	Colombia	235,855	53.8%	Grain split whole upper & sole leather of bovines (not buffalo) nesoi
D	4107.19.40	India	13,088	97.3%	Whole buffalo skin leather (not full grain unsplits/grain splits), w/o
D	4107.91.40	India	107,221	81.9%	Full grain unsplit buffalo leather (not whole), w/o hair on, prepared
D	4107.92.40	Pakistan	1,260	100.0%	Grain splits buffalo leather (not whole), without hair on, prepared af
D	4107.99.60	Colombia	219,937	51.6%	Upper & sole leather of bovines (not buffalo) or equines, not whole, n
D	4202.22.35	Philippines	27,758	50.3%	Handbags with or without shoulder strap or without handle, with outer
D	4302.20.90	Argentina	559,986	46.0%	Heads, tails, paws and other pieces or cuttings of dressed or tanned f
D	4412.13.25	Brazil	2,549,346	92.4%	Plywood sheet n/o 6 mm thick,tropical hard wood outer ply, face ply of
D	4412.14.25	Brazil	3,892,132	90.0%	Plywood sheet n/o 6 mm thick,outer ply of nontropical hardwood,face pl
D	4412.19.30	Russia	159,491	74.4%	Plywood of wood sheets, n/o 6 mm thick each, with outer plies of conif
D	4412.99.46	Chile	509,660	45.8%	Plywood nesoi, softwood outer plies, no trop. hard wood ply, no partic
D	4602.10.23	Indonesia	5,611	43.6%	Articles of a kind normally carried in the pocket or in the handbag, o
D	4802.54.10	Brazil	2,664,576	63.2%	Writing paper, weigh < 40 g/m2, cont. n/o 10% total fiber content by a
D	4802.54.20	Indonesia	3,708,356	84.3%	India & bible paper, weigh < 40 g/m2, n/o 10% total fiber content by a
D	4802.55.20	Indonesia	1,792,678	46.2%	Drawing paper, wt 40 g/m2 -150 g/m2, n/o 10% total fiber content by me
D	4802.56.60	Colombia	74,618	68.6%	Other basic paper be sensitized use in photography, wt. 40g/m2-150g/m2
D	4802.57.10	Brazil	3,949,648	50.5%	Writing/cover paper, wt 40 g/m2-150 g/m2, cont. n/o 10% by weight tota
D	4802.57.20	Indonesia	172,566	95.5%	Drawing paper, wt 40 g/m2 to 150 g/m2, cont. n/o 10% by weight total f
D	4810.14.11	Thailand	524,176	43.9%	Basic paper be sensitized for photography, coated w/inorganic, n/o 150
D	5007.10.30	India	884,828	44.8%	Woven fabrics of noil silk, containing 85 percent or more by weight of
D	5007.90.30	India	2,235,198	42.6%	Woven silk fabrics, containing 85 percent or more by weight of silk or
D	5208.31.20	India	236,557	83.2%	Dyed plain weave certified hand-loomed fabrics of cotton, containing 8
D	5208.32.10	India	99,509	93.5%	Dyed plain weave certified hand-loomed fabrics of cotton, cont. 85% or
D	5208.41.20	India	376,067	96.8%	Plain weave certified hand-loomed fabrics of cotton, 85% or more cotto
D	5208.42.10	India	276,718	87.6%	Plain weave certified hand-loomed fabrics of cotton, 85% or more cotto
D	5209.31.30	India	2,066,486	99.3%	Dyed, plain weave certified hand-loomed fabrics of cotton, containing
D	5209.41.30	India	1,761,502	97.0%	Plain weave certified hand-loomed fabrics of cotton, cont. 85% or more
D	5607.10.00	Thailand	751,237	44.6%	Twine, cordage, rope and cables, of jute or other textile bast fibers
D	5607.90.35	Philippines	2,090,669	56.7%	Twine, cordage, rope & cables of abaca or other hard (leaf) fibers, ot
D	5702.39.10	India	620,470	90.4%	Carpets and other textile floor coverings of pile construction, woven,
D	5702.49.15	India	1,051,845	57.8%	Carpets and other textile floor coverings of pile construction, woven,

FLAGS: '1'=Excluded January/June; 'D'=De minimis;

LIST III : POSSIBLE de MINIMIS ITEMS
2002 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE	DESCRIPTION
D	5702.99.20	India	12,466,738	87.8%	Carpets & other textile floor coverings, not of pile construction, wov
D	6116.99.35	Philippines	306,209	64.9%	Gloves, mittens & mitts specially designed for sports, including ski a
D	6406.10.85	India	11,000	96.3%	Uppers for footwear, nesoi, of materials nesoi, w/external surface are
D	6501.00.60	Ecuador	20,251	85.7%	Hat forms, hat bodies and hoods, not blocked to shape or with made bri
D	7113.20.25	India	105,962	42.0%	Base metal clad w/gold mixed link necklaces and neck chains
D	7114.19.00	India	794,215	50.6%	Precious metal (o/than silver) articles, nesoi, whether or not plated
D	7202.50.00	Kazakhstan	8,107,096	97.2%	Ferrosilicon chromium
D	7505.11.50	Zimbabwe (Rhodesia)	2,970	100.0%	Nickel (o/than alloy), profiles
D	7614.10.50	Ecuador	153,956	76.9%	Aluminum, stranded wire, cables & the like w/steel core, not electrica
D	8112.92.50	Chile	8,590,778	97.8%	Rhenium, unwrought; rhenium powders
D	8459.10.00	Turkey	500,000	79.1%	Way-type unit head machines for drilling, boring, milling, threading o
D	8514.20.40	Thailand	1,543,158	60.2%	Industrial or laboratory microwave ovens for making hot drinks or for
D	8546.10.00	Brazil	407,784	63.7%	Electrical insulators of glass
D	9305.10.40	Peru	15,265	100.0%	Parts and accessories nesoi, for revolvers or pistols designed to fire
D	9614.20.60	Turkey	32,143	53.2%	Smoking pipes and bowls, wholly of clay, and other smoking pipes w/bow

FLAGS: '1'=Excluded January/June; 'D'=De minimis;

LIST IV : POSSIBLE REDESIGNATION ITEMS
2002 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE	DESCRIPTION
*	0202.30.10	Argentina	0	0.0%	High-qual. beef cuts, boneless, processed, frozen, descr in add. US no
*	0404.90.10	Argentina	0	0.0%	Milk protein concentrates
*	0603.10.70	Colombia	70,480,836	87.8%	Chrysanthemums, standard carnations, anthuriums and orchids, fresh cut
*	0703.10.20	Chile	19,943	1.2%	Onion sets, fresh or chilled
*	0703.20.00	Argentina	6,217,542	12.3%	Garlic, fresh or chilled
* D	0708.10.20	Guatemala	1,392,193	48.4%	Peas, fresh or chilled, shelled or unshelled, if entered July 1 to Sep
*	0708.20.10	Peru	0	0.0%	Lima beans, fresh or chilled, shelled or unshelled, if entered Novembe
* D	0708.90.30	Ecuador	110,515	67.2%	Pigeon peas, fresh or chilled, shelled or unshelled, if entered Oct. 1
*	0709.10.00	Chile	11,976	0.6%	Globe artichokes, fresh or chilled
* D	0709.20.10	Peru	13,438,299	93.8%	Asparagus, fresh or chilled, not reduced in size, if entered September
* D	0710.29.30	Ecuador	810,941	65.6%	Pigeon peas, uncooked or cooked by steaming or boiling in water, froze
*	0710.29.30	Dominican Republic	0	0.0%	Pigeon peas, uncooked or cooked by steaming or boiling in water, froze
*	0710.80.65	Guatemala	474,253	13.2%	Brussels sprouts, uncooked or cooked by steaming or boiling in water,
*	0710.80.70	Guatemala	757,167	6.4%	Vegetables nesi, uncooked or cooked by steaming or boiling in water, f
* D	0710.80.93	Guatemala	2,305,771	64.6%	Okra, reduced in size, frozen
*	0711.30.00	Turkey	217,888	32.7%	Capers, provisionally preserved but unsuitable in that state for immed
* D	0712.90.30	Peru	46,670	51.4%	Dried potatoes, whether or not cut or sliced but not further prepared
*	0712.90.74	Turkey	148,348	0.6%	Dried tomatoes in powder, but not further prepared
*	0713.33.20	El Salvador	404,652	5.7%	Dried kidney beans, including white pea beans, shelled, if entered May
*	0713.90.10	Peru	0	0.0%	Seeds of leguminous vegetables nesi, of a kind used for sowing
* D	0714.10.10	Costa Rica	5,667,439	84.2%	Cassava (manioc), frozen, whether or not sliced or in the form of pell
* D	0714.10.20	Costa Rica	10,407,801	97.6%	Cassava (manioc), fresh, chilled or dried, whether or not sliced or in
*	0714.20.10	Dominican Republic	4,288	6.3%	Sweet potatoes, frozen, whether or not sliced or in the form of pellet
*	0714.20.10	Colombia	0	0.0%	Sweet potatoes, frozen, whether or not sliced or in the form of pellet
* D	0714.20.20	Dominican Republic	2,982,759	95.0%	Sweet potatoes, fresh, chilled or dried, whether or not sliced or in t
*	0714.90.45	Costa Rica	254,480	36.5%	Frozen dasheens, yams, arrowroot, salep, Jerusalem artichokes and simi
*	0802.90.80	Guatemala	36,796	2.9%	Nuts nesi, fresh or dried, in shell
*	0805.50.30	Jamaica	0	0.0%	Tahitian limes, Persian limes and other limes of the Citrus latifolia
*	0805.50.30	Turkey	0	0.0%	Tahitian limes, Persian limes and other limes of the Citrus latifolia
* D	0805.90.01	Jamaica	1,184,190	46.3%	Citrus fruit, nesi, fresh or dried, including kumquats, citrons and be
*	0805.90.01	Turkey	0	0.0%	Citrus fruit, nesi, fresh or dried, including kumquats, citrons and be
* D	0811.90.10	Costa Rica	3,724,235	56.8%	Bananas and plantains, frozen, in water or containing added sweetening
* D	0811.90.50	Costa Rica	1,809,306	70.3%	Pineapples, frozen, in water or containing added sweetening
*	0813.10.00	Turkey	23,159,490	96.0%	Apricots, dried
*	0813.30.00	Argentina	575,062	8.1%	Apples, dried
*	1005.90.20	Argentina	706,860	5.4%	Yellow dent corn
*	1005.90.40	Argentina	298,361	4.7%	Corn (maize), other than seed and yellow dent corn
*	1007.00.00	Argentina	0	0.0%	Grain sorghum
*	1102.90.30	El Salvador	0	0.0%	Cereal flours nesi, mixed together
* D	1106.30.20	Ecuador	114,704	88.5%	Flour, meal and powder of banana and plantain
*	1602.50.09	Argentina	5,349,270	23.0%	Prepared or preserved meat of bovine animals, cured or pickled, not co
*	1602.50.20	Brazil	37,324,570	60.4%	Prepared or preserved beef in airtight containers, other than corned b
*	1602.50.20	Argentina	19,743,966	31.9%	Prepared or preserved beef in airtight containers, other than corned b
*	1604.14.50	Colombia	47,272	17.4%	Tunas and skipjack, not in airtight containers, not in bulk or in imme
*	1604.14.50	Thailand	0	0.0%	Tunas and skipjack, not in airtight containers, not in bulk or in imme
*	1701.11.05	Colombia	0	0.0%	Cane sugar, raw, in solid form, w/o added flavoring or coloring, subje
*	1701.11.05	Brazil	0	0.0%	Cane sugar, raw, in solid form, w/o added flavoring or coloring, subje
*	1701.11.10	Dominican Republic	69,248,856	19.6%	Cane sugar, raw, in solid form, w/o added flavoring or coloring, subje
*	1701.11.10	Brazil	34,625,048	9.8%	Cane sugar, raw, in solid form, w/o added flavoring or coloring, subje
*	1701.11.10	Argentina	17,532,367	4.9%	Cane sugar, raw, in solid form, w/o added flavoring or coloring, subje
*	1701.11.20	Guatemala	5,433,632	15.5%	Cane sugar, raw, in solid form, to be used for certain polyhydric alco

FLAGS: '*'=Excluded full year; '2'=Excluded July/December; 'D'=De minimis;

LIST IV : POSSIBLE REDESIGNATION ITEMS
2002 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE	DESCRIPTION
*	1701.11.20	Brazil	12,301,796	35.3%	Cane sugar, raw, in solid form, to be used for certain polyhydric alco
*	1701.12.10	Brazil	0	0.0%	Beet sugar, raw, in solid form, w/o added flavoring or coloring, subje
*	1701.99.05	Brazil	0	0.0%	Cane/beet sugar & pure sucrose, refined, solid, w/o added coloring or
*	1701.99.10	Brazil	851,886	2.7%	Cane/beet sugar & pure sucrose, refined, solid, w/o added coloring or
* D	1702.30.22	Jamaica	38,761	75.4%	Glucose & glucose syrup nt containing or containing in dry state less
*	1702.30.22	Argentina	0	0.0%	Glucose & glucose syrup nt containing or containing in dry state less
*	1702.60.22	Argentina	0	0.0%	Oth fructose & fruc. syrup contng in dry state >50% by wt. of fructose
*	1702.90.35	Belize	0	0.0%	Invert molasses
*	1702.90.40	Dominican Republic	0	0.0%	Other cane/beet syrups nesi
*	1702.90.40	Brazil	0	0.0%	Other cane/beet syrups nesi
*	1703.10.30	Dominican Republic	0	0.0%	Cane molasses imported for (a) the commercial extraction of sugar or (
*	1703.90.50	Poland	0	0.0%	Molasses nesi
*	1806.10.22	Colombia	0	0.0%	Cocoa powder, o/65% but less than 90% by dry wt of sugar, subject to g
* D	1806.10.34	Colombia	318,756	100.0%	Cocoa powder, sweetened, neosi, subject to add US note 1 to Ch. 18
*	1806.32.55	Colombia	35,200	31.9%	Cocoa preps, not filled, in blocks, slabs or bars weighing 2 kg or les
*	2002.90.40	Turkey	0	0.0%	Tomatoes in powder, prepared or preserved otherwise than by vinegar or
* D	2004.10.40	Colombia	28,880	62.8%	Yellow (Solano) potatoes, prepared or preserved otherwise than by vine
*	2004.10.40	Peru	8,530	18.5%	Yellow (Solano) potatoes, prepared or preserved otherwise than by vine
*	2005.10.00	Turkey	0	0.0%	Homogenized vegetables, prepared or preserved otherwise than by vinega
*	2007.99.48	Argentina	22,378	4.5%	Apple, quince and pear pastes and purees, being cooked preparations
*	2007.99.50	Brazil	700,657	8.3%	Guava and mango pastes and purees, being cooked preparations
*	2008.19.25	Peru	0	0.0%	Pecans, otherwise prepared or preserved, nesi
* D	2008.19.30	Turkey	332,549	60.4%	Pignolia and pistachio nuts, otherwise prepared or preserved, nesi
*	2008.19.30	Pakistan	0	0.0%	Pignolia and pistachio nuts, otherwise prepared or preserved, nesi
*	2008.30.10	Dominican Republic	6,199	2.6%	Peel of oranges, mandarins, clementines, wilkings and similar citrus h
* D	2008.50.20	Argentina	82,155	67.9%	Apricot pulp, otherwise prepared or preserved, nesi
*	2008.50.20	Turkey	2,460	2.0%	Apricot pulp, otherwise prepared or preserved, nesi
* D	2008.99.13	Costa Rica	8,952,958	75.0%	Banana pulp, otherwise prepared or preserved, nesi
* D	2008.99.23	Dominican Republic	449,377	89.1%	Cashew apples, mameyes colorados, sapodillas, soursops and sweetsops,
*	2008.99.45	Dominican Republic	0	0.0%	Papaya pulp, otherwise prepared or preserved, nesi
*	2009.31.10	Honduras	0	0.0%	Lime juice, Brix value not exceeding 20, unfit for beverage purposes
*	2009.39.10	Honduras	0	0.0%	Lime juice, Brix value exceeding 20, unfit for beverage purposes
*	2106.90.12	Dominican Republic	0	0.0%	Compound alcoholic preparations of a kind used for the manufacture of
* D	2202.90.36	Dominican Republic	556,765	70.2%	Single fruit or vegetable juice (other than orange), fortified with vi
*	2207.10.30	Barbados	1,690,554	12.3%	Undenatured ethyl alcohol of 80 percent vol. alcohol or higher, for be
* D	2305.00.00	Argentina	619,321	100.0%	Oilcake and other solid residues, resulting from the extraction of pea
*	2401.20.57	Indonesia	0	0.0%	Tobacco, partly or wholly stemmed/stripped, n/threshed or similarly pr
*	2603.00.00	Chile	71,304,242	75.2%	Copper ores and concentrates
*	2607.00.00	Peru	0	0.0%	Lead ores and concentrates
*	2804.69.10	Brazil	39,140,895	37.7%	Silicon, containing by weight less than 99.99 percent but not less tha
*	2805.40.00	Argentina	0	0.0%	Mercury
*	2813.90.50	Argentina	0	0.0%	Sulfides of nonmetals, excluding carbon disulfide and sulfides of arse
*	2832.30.10	Argentina	0	0.0%	Sodium thiosulfate
*	2839.90.00	Argentina	0	0.0%	Silicates and commercial alkali metal silicates, excluding those of so
*	2841.30.00	Argentina	15,275	0.1%	Sodium dichromate
*	2841.50.90	Argentina	0	0.0%	Chromates except of zinc or lead and dichromates except of sodium or p
*	2843.30.00	Colombia	0	0.0%	Gold compounds
*	2843.30.00	Chile	0	0.0%	Gold compounds
*	2843.30.00	Argentina	0	0.0%	Gold compounds
*	2849.10.00	Argentina	64,425	16.2%	Calcium carbide
*	2850.00.50	Argentina	65,553	0.4%	Hydrides, nitrides, azides, silicides and borides other than of calciu

FLAGS: '*'=Excluded full year; '2'=Excluded July/December; 'D'=De minimis;

LIST IV : POSSIBLE REDESIGNATION ITEMS
2002 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE	DESCRIPTION
*	2902.11.00	Argentina.....	7,406,126	21.7%	Cyclohexane
*	2904.90.15	Brazil.....	0	0.0%	4-Chloro-3-nitro-alpha,alpha,alpha-trifluorotoluene; and other specifi
*	2905.12.00	Argentina.....	2,495,944	5.5%	Propan-1-ol (Propyl alcohol) and Propan-2-ol (isopropyl alcohol)
*	2905.13.00	Argentina.....	0	0.0%	Butan-1-ol (n-Butyl alcohol)
*	2905.22.50	Argentina.....	0	0.0%	Acyclic terpene alcohols, other than geraniol and isophytol
*	2906.11.00	Brazil.....	1,183,500	5.6%	Menthol
*	2906.14.00	Argentina.....	0	0.0%	Terpineols
*	2907.23.00	Brazil.....	132,140	7.8%	4,4'-Isopropylidenediphenol (Bisphenol A, Diphenylolpropane) and its s
*	2909.19.14	Brazil.....	74,450,434	7.8%	Methyl tertiay-butyl ether. (MTBE)
*	2912.13.00	Colombia.....	0	0.0%	Butanal (Butyraldehyde, normal isomer)
*	2914.12.00	Argentina.....	599,542	10.5%	Butanone (Methyl ethyl ketone)
*	2914.13.00	Argentina.....	124,328	1.4%	4-Methylpentan-2-one (Methyl isobutyl ketone)
*	2915.31.00	Brazil.....	891,333	10.8%	Ethyl acetate
*	2915.70.00	Argentina.....	17,643	0.0%	Palmitic acid, stearic acid, their salts and esters
*	2917.14.50	Argentina.....	82,275	1.2%	Maleic anhydride, except derived in whole or in part from benzene or o
*	2918.21.50	Argentina.....	74,770	8.4%	Salicylic acid and its salts, not suitable for medicinal use
*	2918.22.10	Argentina.....	0	0.0%	O-Acetylsalicylic acid (Aspirin)
*	2918.22.10	Turkey.....	0	0.0%	O-Acetylsalicylic acid (Aspirin)
*	2918.22.50	Argentina.....	0	0.0%	Salts and esters Of O-acetylsalicylic acid
*	2921.42.23	Guatemala.....	0	0.0%	3,4-Dichloroaniline
*	2924.21.16	Brazil.....	8,155,448	39.8%	Aromatic ureines and their derivatives pesticides, nesoi
* D	2928.00.10	Colombia.....	188,831	49.7%	Methyl ethyl ketoxime
*	2929.10.15	Argentina.....	27,400	1.1%	Mixtures of 2,4- and 2,6-toluenediisocyanates
*	2932.99.90	Argentina.....	0	0.0%	Nonaromatic heterocyclic compounds with oxygen hetero-atom(s) only, ne
* D	2933.39.23	Guatemala.....	148,800	100.0%	o-Paraquat dichloride
*	2933.49.30	Argentina.....	0	0.0%	Pesticides of heterocyclic compounds with nitrogen hetero-atom(s) only
*	2933.99.55	Argentina.....	0	0.0%	Aromatic or modified aromatic analgesics, etc., affecting the CNS, of
*	2934.99.15	Brazil.....	0	0.0%	Aromatic or modified aromatic herbicides of other heterocyclic compoun
*	3204.12.20	Argentina.....	304,728	2.8%	Acid black 61 and other specified acid and mordant dyes and preparatio
*	3204.12.30	Argentina.....	0	0.0%	Mordant black 75, blue 1, brown 79, red 81, 84 and preparations based
*	3204.12.45	Argentina.....	143,860	0.7%	Acid dyes, whether or not premetallized, and preparations based thereo
*	3204.12.50	Argentina.....	9,072	0.0%	Synthetic acid and mordant dyes and preparations based thereon, nesoi
*	3209.90.00	Argentina.....	72,060	0.1%	Paints and varnishes based on synthetic polymers or chemically modifie
*	3212.90.00	Colombia.....	31,860,417	35.4%	Pigments dispersed in nonaqueous media, in liquid or paste form, used
*	3301.12.00	Brazil.....	11,783,013	52.3%	Essential oils of orange
*	3301.19.10	Argentina.....	291,562	12.0%	Essential oils of grapefruit
*	3301.90.10	Argentina.....	0	0.0%	Extracted oleoresins consisting essentially of nonvolatile components
*	3307.20.00	Argentina.....	31,776	0.0%	Personal deodorants and antiperspirants
*	3307.49.00	Argentina.....	0	0.0%	Preparations for perfuming or deodorizing rooms, including odoriferous
*	3501.90.20	Dominican Republic..	0	0.0%	Casein glues
*	3504.00.50	Argentina.....	0	0.0%	Peptones and their derivatives; protein substances and their derivativ
*	3506.99.00	Argentina.....	0	0.0%	Prepared glues and other prepared adhesives, excluding adhesives based
*	3701.10.00	Argentina.....	0	0.0%	Photographic plates and film in the flat, sensitized, unexposed, of an
*	3702.10.00	Argentina.....	0	0.0%	Photographic film in rolls, sensitized, unexposed, for X-ray use; of a
*	3706.10.30	Argentina.....	0	0.0%	Sound recordings on motion-picture film of a width of 35 mm or more, s
*	3707.90.32	Argentina.....	0	0.0%	Chemical preparations for photographic uses, nesoi
*	3806.30.00	Argentina.....	0	0.0%	Ester gums
*	3824.90.40	Brazil.....	527,893	0.7%	Fatty substances of animal or vegetable origin and mixtures thereof, n
*	3901.90.90	Argentina.....	5,063	0.0%	Polymers of ethylene, nesoi, in primary forms, other than elastomeric
*	3902.10.00	Argentina.....	2,001	0.0%	Polypropylene, in primary forms
*	3902.20.50	Argentina.....	1,892,205	29.4%	Polyisobutylene, other than elastomeric, in primary forms

FLAGS: '*'=Excluded full year; '2'=Excluded July/December; 'D'=De minimis;

LIST IV : POSSIBLE REDESIGNATION ITEMS
2002 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE	DESCRIPTION
*	3902.90.00	Argentina.....	0	0.0%	Polymers of propylene or of other olefins, nesoi, in primary forms
*	3903.90.50	Argentina.....	7,041	0.0%	Polymers of styrene, nesoi, in primary forms
*	3904.21.00	Brazil.....	0	0.0%	Polyvinyl chloride, mixed with other substances, nonplasticized, in pr
*	3904.40.00	Argentina.....	0	0.0%	Vinyl chloride copolymers nesoi, in primary forms
*	3906.10.00	Argentina.....	0	0.0%	Polymethyl methacrylate, in primary forms
*	3906.90.50	Argentina.....	0	0.0%	Acrylic polymers (except plastics or elastomers), in primary forms, ne
*	3907.30.00	Argentina.....	0	0.0%	Epoxide resins in primary forms
*	3907.60.00	Argentina.....	519,458	0.1%	Polyethylene terephthalate in primary forms
*	3907.99.00	Argentina.....	0	0.0%	Polyesters nesoi, saturated, in primary forms
*	3909.10.00	Argentina.....	0	0.0%	Urea resins; thiourea resins
*	3909.50.50	Argentina.....	3,515	0.0%	Polyurethanes, other than elastomeric or cements, in primary forms
*	3913.90.20	Argentina.....	1,680,759	1.0%	Polysaccharides and their derivatives, nesoi, in primary forms
*	3920.59.80	Dominican Republic..	117,024	5.9%	Plates, sheets, film, etc, noncellular, not reinforced, laminated, com
*	3921.90.50	Argentina.....	11,778	0.0%	Nonadhesive plates, sheets, film, foil and strip, nonflexible, nesoi,
*	3923.90.00	Argentina.....	712,429	0.1%	Articles nesoi, for the conveyance or packing of goods, of plastics
*	3926.20.30	Pakistan.....	1,218,559	16.0%	Gloves specially designed for use in sports, nesoi, of plastics
*	4006.10.00	Brazil.....	26,072	1.2%	"Camel-back" strips of unvulcanized rubber, for retreading rubber tire
*	4010.19.50	Brazil.....	1,371	0.2%	Conveyor belts/belting of vulcanized rubber, nesoi, combined w/textile
*	4011.10.10	Brazil.....	48,963,748	2.7%	New pneumatic radial tires, of rubber, of a kind used on motor cars (i
*	4011.10.10	Argentina.....	14,225,154	0.8%	New pneumatic radial tires, of rubber, of a kind used on motor cars (i
*	4011.10.50	Brazil.....	17,685	0.0%	New pneumatic tires excluding radials, of rubber, of a kind used on mo
*	4011.20.10	Brazil.....	49,804,118	3.6%	New pneumatic radial tires, of rubber, of a kind used on buses or truc
*	4011.20.50	Brazil.....	3,919,633	3.0%	New pneumatic tires excluding radials, of rubber, of a kind used on bu
*	4012.90.45	Sri Lanka (Ceylon)..	0	0.0%	Interchangeable tire treads and tire flaps, of natural rubber, nesoi
*	4101.20.40	Argentina.....	0	0.0%	Whole bovine hides/skins (not buffalo) (n/o 8 kg dried, 10 kg dry salt
*	4101.20.50	Brazil.....	6,461	13.2%	Whole bovine hide/skin (not buffalo) (n/o 8 kg dried, 10 kg dry salted
*	4101.20.50	Argentina.....	415	0.8%	Whole bovine hide/skin (not buffalo) (n/o 8 kg dried, 10 kg dry salted
*	4101.20.70	Argentina.....	0	0.0%	Whole equine hides and skins (n/o 8 kg when dried, 10 kg when dry salt
*	4101.50.40	Argentina.....	0	0.0%	Whole raw bovine hides and skins (not buffalo), weight over 16 kg, sur
*	4101.50.50	Brazil.....	252	0.3%	Whole raw bovine hides/skins (not buffalo), weight over 16 kg, surface
*	4101.50.50	Argentina.....	1,909	2.6%	Whole raw bovine hides/skins (not buffalo), weight over 16 kg, surface
*	4101.50.70	Argentina.....	0	0.0%	Whole raw equine hides and skins, of a weight exceeding 16 kg, pretann
*	4101.90.40	Argentina.....	177,168	31.3%	Raw bovine hides and skins (other than whole), vegetable pretanned but
* D	4101.90.50	Brazil.....	92,885	52.4%	Raw bovine hides and skins (other than whole), pretanned (other than v
*	4101.90.50	Argentina.....	2,720	1.5%	Raw bovine hides and skins (other than whole), pretanned (other than v
*	4101.90.70	Argentina.....	1,051	1.0%	Raw equine hides and skins (other than whole), pretanned but further p
*	4103.10.30	Pakistan.....	810	5.3%	Raw hides and skins of goat or kid (not excluded by note 1(c) to chapt
*	4103.20.20	Argentina.....	0	0.0%	Raw hides and skins of reptiles, vegetable pretanned but not further p
*	4104.11.40	Argentina.....	0	0.0%	Full grain unsplit/grain split bovine nesoi and equine upper & sole hi
*	4104.11.50	Argentina.....	0	0.0%	Full grain unsplit/grain split bovine (except buffalo) nesoi and equin
*	4104.19.40	Argentina.....	5,622	3.7%	Upper and sole bovine (except buffalo) and equine hides and skins, nes
*	4104.19.50	Argentina.....	36,990	0.9%	Bovine (except buffalo) and equine hides and skins (not upper/sole) ne
*	4104.41.40	Argentina.....	11,861	0.5%	Crust full grain unsplit/grain split bovine (ex. buffalo) nesoi/equine
*	4104.41.50	Argentina.....	286,146	3.1%	Crust full grain unsplit/grain split bovine (except buffalo) nesoi and
*	4104.49.40	Argentina.....	19,301	1.4%	Crust upper and sole equine and bovine (except buffalo) nesoi hides an
*	4104.49.50	Argentina.....	59,164	0.8%	Crust bovine (except buffalo) nesoi and equine hides and skins, nesoi,
*	4106.21.90	Pakistan.....	336,138	15.6%	Hides and skins of goats or kids, without hair on, tanned but not furt
*	4106.22.00	Pakistan.....	345,491	23.0%	Hides and skins of goats or kids, without hair on, tanned but not furt
*	4107.11.50	Argentina.....	43,615,572	22.6%	Full grain unsplit upholstery leather of bovines (not buffalo) nesoi a
*	4107.11.60	Argentina.....	249,293	17.3%	Full grain unsplit upper & sole leather of bovines (not buffalo) nesoi
*	4107.11.70	Argentina.....	10,783	0.2%	Full grain unsplit whole bovine (not buffalo) nesoi and equine leather

FLAGS: '*'=Excluded full year; '2'=Excluded July/December; 'D'=De minimis;

LIST IV : POSSIBLE REDESIGNATION ITEMS
2002 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE	DESCRIPTION
*	4107.11.80	Argentina	20,247,452	74.7%	Full grain unsplit whole bovine (not buffalo) nesoi and equine leather
*	4107.12.50	Argentina	17,627,379	46.2%	Grain split whole upholstery leather of bovines (not buffalo) nesoi an
*	4107.12.60	Argentina	0	0.0%	Grain split whole upper & sole leather of bovines (not buffalo) nesoi
*	4107.12.70	Argentina	433	0.0%	Grain split whole bovine (not buffalo) nesoi and equine nesoi leathers
*	4107.12.80	Argentina	214,803	2.8%	Grain split whole bovine (not buffalo) nesoi and equine nesoi leathers
*	4107.19.50	Argentina	19,920,222	39.9%	Whole upholstery leather of bovines (not buffalo) nesoi and equines ne
*	4107.19.60	Argentina	0	0.0%	Whole upper & sole leather of bovines (not buffalo) nesoi or equines n
*	4107.19.70	Argentina	2,373	0.2%	Whole bovine (not buffalo) and equine leather, nesoi, without hair on,
*	4107.19.80	Argentina	233,922	3.1%	Whole bovine (not buffalo) and equine leather, nesoi, without hair on,
*	4107.91.50	Argentina	26,966	0.2%	Full grain unsplit upholstery leather of bovines (not buffalo) & equin
*	4107.91.60	Argentina	42,192	2.7%	Full grain unsplit upper & sole leather of bovines (not buffalo) or eq
*	4107.91.70	Argentina	202,114	5.5%	Full grain unsplit bovine (not buffalo) & equine leather, not whole, w
*	4107.91.80	Argentina	325,188	2.5%	Full grain unsplit bovine (not buffalo) & equine leather, not whole, w
*	4107.92.50	Argentina	664,699	6.4%	Grain splits upholstery leather of bovines (not buffalo) and equines,
*	4107.92.60	Argentina	126,277	2.5%	Grain splits upper & sole leather of bovines (not buffalo) or equines,
*	4107.92.70	Argentina	0	0.0%	Grain splits bovine (not buffalo) and equine leather, not whole, w/o h
*	4107.92.80	Argentina	6,092,591	30.6%	Grain splits bovine (not buffalo) and equine leather, not whole, witho
*	4107.99.50	Argentina	4,535,767	6.7%	Upholstery leather of bovines (not buffalo) or equines, not whole, nes
*	4107.99.60	Argentina	0	0.0%	Upper & sole leather of bovines (not buffalo) or equines, not whole, n
*	4107.99.70	Argentina	182,053	1.6%	Bovine (not buffalo) and equine leather, not whole, nesoi, without hai
*	4107.99.80	Argentina	28,478	0.3%	Bovine (not buffalo) and equine leather, not whole, nesoi, without hai
*	4112.00.60	Argentina	0	0.0%	Sheep or lamb skin leather, without wool on, fancy, further prepared a
*	4113.10.30	Pakistan	458,076	27.5%	Goat or kidskin leather, without hair on, not fancy, further prepared
*	4113.10.60	Pakistan	104,616	8.4%	Goat or kidskin leather, without hair on, fancy, further prepared afte
*	4113.90.60	Argentina	1,700	0.0%	Leather of animals nesoi, without hair on, fancy, further prepared aft
*	4114.20.70	Argentina	0	0.0%	Patent laminated leather or metallized leather, other than calf or kip
*	4201.00.60	Argentina	2,260,129	2.5%	Saddlery and harnesses for animals nesi, (incl. traces, leads, knee pa
*	4203.21.20	Pakistan	447,420	2.2%	Batting gloves, of leather or of composition leather
*	4203.21.55	Pakistan	184,985	9.0%	Cross-country ski gloves, mittens and mitts, of leather or of composit
*	4203.21.60	Pakistan	323,544	6.4%	Ski or snowmobile gloves, mittens and mitts, nesi, of leather or of co
*	4203.21.80	Pakistan	8,078,479	10.5%	Gloves, mittens and mitts specially designed for use in sports, nesi,
*	4205.00.60	Argentina	0	0.0%	Articles of reptile leather, nesi
*	4303.10.00	Argentina	982,849	0.6%	Articles of apparel and clothing accessories, of furskins
*	4411.29.90	Brazil	0	0.0%	Fiberboard nesi, density between 0.5 g/cm3 and 0.8 g/cm3
*	4412.13.51	Brazil	1,592,120	5.3%	Plywood sheets n/o 6 mm thick, tropical wood nesoi outer ply, with fac
*	4412.13.51	Indonesia	13,161,553	44.2%	Plywood sheets n/o 6 mm thick, tropical wood nesoi outer ply, with fac
*	4412.13.91	Brazil	109,748	2.8%	Plywood sheets n/o 6 mm thick, tropical wood nesoi outer ply, surface
* D	4412.13.91	Indonesia	2,246,808	58.3%	Plywood sheets n/o 6 mm thick, tropical wood nesoi outer ply, surface
*	4412.14.31	Brazil	38,239,403	24.1%	Plywood sheets n/o 6 mm thick, outer ply of nontropical hardwood, with
*	4412.14.56	Brazil	459,969	5.4%	Plywood sheets n/o 6 mm thick, outer ply of nonconiferous wood, surfac
*	4412.22.31	Brazil	896,597	8.7%	Plywood nesoi, least one hardwood outer ply, w/tropical hardwood ply,
*	4412.22.31	Indonesia	2,731,624	26.7%	Plywood nesoi, least one hardwood outer ply, w/tropical hardwood ply,
* D	4412.22.41	Indonesia	768,548	52.0%	Plywood nesoi, at least one hardwood outer ply, w/tropical hardwood pl
*	4412.22.41	Colombia	0	0.0%	Plywood nesoi, at least one hardwood outer ply, w/tropical hardwood pl
*	4412.22.41	Brazil	0	0.0%	Plywood nesoi, at least one hardwood outer ply, w/tropical hardwood pl
*	4412.29.36	Brazil	514,869	1.5%	Plywood nesoi, at least one hardwood outer ply nesoi, no particle boar
*	4412.29.36	Indonesia	5,388,238	16.2%	Plywood nesoi, at least one hardwood outer ply nesoi, no particle boar
* D	4412.29.46	Ecuador	647,781	44.6%	Plywood nesoi, at least one hardwood outer ply nesoi, no particle boar
*	4412.29.46	Brazil	13,733	0.9%	Plywood nesoi, at least one hardwood outer ply nesoi, no particle boar
*	4412.29.46	Indonesia	0	0.0%	Plywood nesoi, at least one hardwood outer ply nesoi, no particle boar
*	4412.92.41	Ecuador	0	0.0%	Plywood nesoi,softwood outer plies,least 1 ply trop. hardwood,no parti

FLAGS: '*'=Excluded full year; '2'=Excluded July/December; 'D'=De minimis;

LIST IV : POSSIBLE REDESIGNATION ITEMS
2002 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE	DESCRIPTION
* D	4412.92.51	Guyana	187,510	53.3%	Plywood nesoi,softwood outer plies, at least 1 ply trop. hardwood, no
*	4412.99.56	Colombia	0	0.0%	Plywood nesoi, softwood outer plies, no trop. hard wood ply, no partic
*	4421.90.60	Brazil	0	0.0%	Wooden skewers, candy sticks, ice cream sticks, tongue depressors, dri
*	4802.55.10	Argentina	15,706	0.0%	Writing/cover paper, wt 40 g/m2-150 g/m2, n/o 10% total fiber by mecha
*	4802.56.10	Argentina	0	0.0%	Writing & cover paper, wt 40 g/m2-150 g/m2, n/o 10% by weight total fi
*	4802.57.10	Argentina	0	0.0%	Writing/cover paper, wt 40 g/m2-150 g/m2, cont. n/o 10% by weight tota
*	4809.10.20	Guatemala	0	0.0%	Carbon or similar copying paper, in rolls over 36 cm wide or rectangul
*	4823.20.10	Brazil	0	0.0%	Paint filters and strainers of paper or paperboard
*	4823.90.20	Philippines	2,997,764	31.0%	Articles of papier-mache, nesi
*	5701.10.13	Pakistan	38,862	8.2%	Carpet & other textile floor covering,hand-knotted/hand-inserted,w/ov
*	5702.10.10	Pakistan	278	0.0%	Certified hand-loomed and folklore products being "Kelem", "Schumacks"
*	5702.91.20	Pakistan	1,175	0.7%	Certified hand-loomed & folklore floor covering, woven not on power-dr
*	5805.00.20	Pakistan	1,240	1.8%	Certified hand-loomed and folklore hand-woven tapestries nesoi and nee
*	5904.90.90	Guatemala	0	0.0%	Floor coverings consisting of a coating applied on a textile backing,
*	6304.99.10	Pakistan	0	0.0%	Wall hangings, not knitted or crocheted, of wool or fine animal hair,
*	6304.99.40	Pakistan	348	9.7%	Certified hand-loomed and folklore pillow covers of wool or fine anima
*	6501.00.60	Colombia	0	0.0%	Hat forms, hat bodies and hoods, not blocked to shape or with made bri
*	6908.10.20	Thailand	326,291	4.5%	Glazed ceramic tiles, cubes & similar arts. w/largest area enclosable
*	6910.10.00	Brazil	9,403,696	6.9%	Porcelain or china ceramic sinks, washbasins, baths, bidets, water clo
*	6910.90.00	Brazil	1,952,451	0.9%	Ceramic (o/than porcelain or china) sinks, washbasins, baths, bidets,
*	6910.90.00	Argentina	0	0.0%	Ceramic (o/than porcelain or china) sinks, washbasins, baths, bidets,
*	6911.90.00	Brazil	0	0.0%	Porcelain or china (o/than bone china) household and toilet articles (
*	6912.00.44	Brazil	716,462	1.0%	Ceramic (o/than porcelain or china) household mugs and steins w/o atta
*	7007.11.00	Argentina	85,829	0.0%	Toughened (tempered) safety glass, of size and shape suitable for inco
*	7106.92.50	Chile	0	0.0%	Silver (including silver plated with gold or platinum), in semimanufac
*	7109.00.00	Peru	0	0.0%	Base metals or silver clad with gold, but not further worked than semi
*	7113.19.21	Peru	13,746,688	41.1%	Gold rope necklaces and neck chains
*	7113.19.29	Turkey	11,410,758	1.7%	Gold necklaces and neck chains (o/than of rope or mixed links)
*	7113.19.50	Turkey	93,990,325	2.7%	Precious metal (o/than silver) articles of jewelry and parts thereo, w
*	7114.11.60	Argentina	7,750	0.4%	Articles of silver nesoi, for household, table or kitchen use, toilet
*	7114.19.00	Peru	0	0.0%	Precious metal (o/than silver) articles, nesoi, whether or not plated
*	7115.90.30	Colombia	3,213	0.0%	Gold (including metal clad with gold) articles (o/than jewellry or gol
*	7115.90.30	Argentina	2,281	0.0%	Gold (including metal clad with gold) articles (o/than jewellry or gol
*	7115.90.40	Argentina	0	0.0%	Silver (including metal clad with silver) articles (o/than jewellry or
*	7116.10.10	Thailand	0	0.0%	Natural pearl articles
*	7116.20.05	Thailand	6,386,378	12.3%	Jewelry articles of precious or semiprecious stones, valued not over $
*	7116.20.15	Thailand	1,622,995	9.3%	Jewelry articles of precious or semiprecious stones, valued over $40 p
*	7117.90.55	Peru	0	0.0%	Imitation jewelry nesoi, not of base metal, n/o 20 cents/doz. pcs or p
*	7202.21.50	Argentina	0	0.0%	Ferrosilicon containing by weight more than 55% but not more than 80%
*	7202.30.00	Argentina	0	0.0%	Ferrosilicon manganese
*	7307.91.30	Brazil	0	0.0%	Alloy steel (o/than stainless), not cast, flanges for tubes/pipes, for
*	7308.90.95	Argentina	607,665	0.1%	Iron or steel, structures (excluding prefab structures of 9406) and pa
*	7315.90.00	Argentina	96,729	0.6%	Iron or steel, parts of chain (other than articulated link chain)
*	7403.11.00	Russia	35,384,875	3.0%	Refined copper cathodes and sections of cathodes
*	7403.11.00	Kazakhstan	4,479,153	0.3%	Refined copper cathodes and sections of cathodes
*	7403.21.00	Chile	50,407	0.7%	Copper-zinc base alloys (brass), unwrought nesoi
*	7403.22.00	Chile	0	0.0%	Copper-tin base alloys (bronze), unwrought nesoi
*	7403.23.00	Chile	0	0.0%	Copper-nickel base alloys (cupro-nickel) or copper-nickel-zinc base al
*	7403.29.00	Chile	0	0.0%	Copper alloys (o/than copper-zinc, copper-tin, copper-nickel(cupro-nic
*	7407.21.90	Brazil	22,045	0.0%	Copper-zinc base alloys (brass), bars & rods nesoi, not having a recta
*	7407.22.30	Russia	0	0.0%	Copper-nickel base alloys (cupro-nickel) or copper-nickel-zinc base al

FLAGS: '*'=Excluded full year; '2'=Excluded July/December; 'D'=De minimis;

LIST IV : POSSIBLE REDESIGNATION ITEMS
2002 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE	DESCRIPTION
*	7409.11.50	Argentina.....	0	0.0%	Refined copper, plates, sheets and strip, in coils, with a thickness o
*	7409.21.00	Argentina.....	0	0.0%	Copper-zinc base alloys (brass), plates, sheets and strip, in coils
*	7409.39.50	Hungary.....	102,355	33.6%	Copper-tin base alloys (bronze), plates, sheets and strip, with a thic
*	7411.21.50	Trinidad and Tobago.	0	0.0%	Copper-zinc base alloys (brass), tubes and pipes, other than seamless
*	7604.10.30	Venezuela.....	0	0.0%	Aluminum (o/than alloy), bar and rods, with a round cross section
*	7604.10.50	Russia.....	19,853	0.3%	Aluminum (o/than alloy), bar and rods, other than with a round cross s
*	7605.11.00	Venezuela.....	0	0.0%	Aluminum (o/than alloy), wire, with a maximum cross-sectional dimensio
*	7605.21.00	Venezuela.....	0	0.0%	Aluminum alloy, wire, with a maximum cross-sectional dimension over 7
*	7614.90.20	Venezuela.....	58,777	4.6%	Aluminum, elect. conductors of stranded wire, cables & the like (o/tha
*	7614.90.50	Venezuela.....	0	0.0%	Aluminum, stranded wire, cables and the like (o/than w/steel core), no
*	7901.11.00	Argentina.....	3,939,878	0.9%	Zinc (o/than alloy), unwrought, containing o/99.99% by weight of zinc
*	7901.12.50	Argentina.....	0	0.0%	Zinc (o/than alloy), unwrought, o/than casting-grade zinc, containing
*	7905.00.00	Peru.....	87,352	2.1%	Zinc, plates, sheets, strip and foil
*	8104.11.00	Russia.....	20,313,559	38.0%	Magnesium, unwrought, containing at least 99.8 percent by weight of ma
*	8112.30.60	Russia.....	288,870	20.3%	Germanium, unwrought
*	8207.20.00	Argentina.....	0	0.0%	Interchangeable dies for drawing or extruding metal, and base metal pa
* D	8211.92.60	Pakistan.....	1,105,921	49.0%	Hunting knives w/fixed blades, with wood handles
*	8211.95.50	Pakistan.....	0	0.0%	Base metal handles for knives (o/than table knivies) w/fixed blades
*	8408.20.90	Brazil.....	65,793	0.3%	Compression-ignition internal-combustion piston engines used for propu
*	8409.91.50	Brazil.....	58,582,717	3.1%	Parts nesi, used solely or principally with spark-ignition internal-co
*	8409.91.50	Argentina.....	4,884,307	0.2%	Parts nesi, used solely or principally with spark-ignition internal-co
*	8409.91.99	Argentina.....	3,005,514	0.7%	Parts nesi, used solely or principally with spark-ignition internal-co
*	8409.99.91	Argentina.....	2,507,157	0.5%	Parts nesi, used solely or principally with the engines of heading 840
*	8413.30.10	Brazil.....	12,714,280	6.5%	Fuel-injection pumps for compression-ignition engines, not fitted with
*	8414.51.00	Thailand.....	93,743,085	12.4%	Table, floor, wall, window, ceiling or roof fans, with a self-containe
*	8450.90.20	Ecuador.....	0	0.0%	Tubs and tub assemblies for household- or laundry-type washing machine
*	8477.51.00	Argentina.....	0	0.0%	Machinery for molding or retreading pneumatic tires or for molding or
*	8480.30.00	Argentina.....	0	0.0%	Molding patterns
*	8481.30.20	Argentina.....	61,276	0.1%	Check valves of iron or steel for pipes, boiler shells, tanks, vats or
*	8481.80.30	Argentina.....	274,552	0.0%	Taps, cocks, valves & similar appliances for pipes, boiler shells, tan
*	8481.80.90	Argentina.....	761,064	0.0%	Taps, cocks, valves & similar appliances for pipes, boiler shells, tan
*	8481.90.30	Argentina.....	128,153	0.1%	Parts of hand operated and check appliances for pipes, boiler shells,
*	8503.00.65	Argentina.....	0	0.0%	Stators and rotors for electric motors & generators of heading 8501, n
*	8516.50.00	Thailand.....	89,653,197	11.3%	Microwave ovens of a kind used for domestic purposes
*	8524.52.10	Argentina.....	0	0.0%	Pre-recorded magnetic video tape recordings of a width exceeding 4 mm
*	8528.12.16	Thailand.....	1,084,425	21.6%	Non-high def. color television reception app., nonprojection, w/CRT, d
*	8535.40.00	Dominican Republic..	0	0.0%	Lightning arrestors, voltage limiters and surge suppressors, for a vol
*	8536.90.80	Argentina.....	46,294	0.0%	Electrical apparatus nesi, for switching or making connections to or i
*	8538.90.80	Argentina.....	13,190	0.0%	Other parts nesi, suitable for use solely or principally with the appa
*	8708.40.50	Brazil.....	61,564	0.1%	Pts. & access. of mtr. vehic. of 8701, nesoi, and of 8705, gear boxes
*	8708.60.80	Argentina.....	0	0.0%	Pts. & access. of mtr. vehic. of 8701, nesoi, of 8702, and of 8704-870
*	8708.70.60	Argentina.....	118,413	0.0%	Pts. & access. of mtr. vehicc of 8701, nesoi, and of 8702-8705, pts. &
*	8708.99.67	Brazil.....	48,974,885	2.3%	Pts. & access. of motor vehicles of 8701, nesoi, and 8702-8705, pts. f
*	8708.99.80	Argentina.....	2,386,461	0.0%	Pts. & access., nesoi, of motor vehicles of 8701, nesoi, and 8702-8705
*	8716.90.50	Argentina.....	409,941	0.2%	Parts of trailers and semi-trailers and vehicles, not mechanically pro
*	9003.90.00	Argentina.....	0	0.0%	Parts of frames and mountings for spectacles, goggles or the like
*	9009.12.00	Thailand.....	93,356,040	66.2%	Electrostatic photocopying apparatus, operating by reproducing the ori
*	9105.19.10	Brazil.....	0	0.0%	Alarm clocks nesoi, not electrically operated, movement measuring not
*	9105.19.40	Brazil.....	0	0.0%	Alarm clocks nesoi, not electrically operated, movement measuring ove
*	9113.10.00	Argentina.....	0	0.0%	Watch straps, watch bands and watch bracelets, of precious metal or of
*	9113.20.60	Argentina.....	0	0.0%	Parts of watch bracelet of base metal, whether or not gold- or silver-

FLAGS: '*'=Excluded full year; '2'=Excluded July/December; 'D'=De minimis;

LIST IV : POSSIBLE REDESIGNATION ITEMS
2002 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE	DESCRIPTION
*	9405.30.00	Thailand.....	92,207	0.0%	Lighting sets of a kind used for Christmas trees
*	9506.62.80	Pakistan.....	445,939	0.5%	Inflatable balls (o/than footballs and soccer balls) nesoi
*	9506.91.00	Pakistan.....	656,186	0.1%	Arts. and equip. for general physical exercise, gymnastics or athletic

FLAGS: '*'=Excluded full year; '2'=Excluded July/December; 'D'=De minimis;

[FR Doc. 03–2746 Filed 2–4–03; 8:45 am]
BILLING CODE 3190–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–275]

WTO Consultations Regarding Venezuela—Import Licensing Measures on Certain Agricultural Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that on November 7, 2002, the United States requested consultations with Venezuela under the Marrakesh Agreement Establishing the World Trade Organization (WTO), regarding Venezuela's import licensing measures on certain agricultural products. These measures appear to be inconsistent with the Venezuela's obligations under the provisions of the GATT 1994, of the WTO Agreement on Agriculture, the TRIMs Agreement and the Import Licensing Agreement and, in particular, Articles III, X, XI, and XII of the GATT 1994, Article 4.2 of the Agreement on Agriculture, Article 2.1 of the TRIMs Agreement, and Articles 1.4, 3.2, 3.5, 5.1, 5.2, and 5.3 of the Import Licensing Agreement. Pursuant to Article 4.3 of the WTO Dispute Settlement Understanding (DSU), Venezuela met with the United States within a period of 30 days from the date of the request, on November 26, 2002. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although the USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before March 21, 2002, to be assured of timely consideration by USTR.

ADDRESSES: Submit comments to *FR0057@ustr.gov*, or to Sandy McKinzy, Monitoring and Enforcement Unit, Office of the General Counsel, fax (202) 395–3640. For assistance, contact Ms. McKinzy at (202) 395–3581.

FOR FURTHER INFORMATION CONTACT: Katharine J. Mueller, Assistant General Counsel, Office of the United States Trade Representative, at (202) 395–3581.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, but in an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO Dispute Settlement Understanding. If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

Major Issues Raised by the United States

Venezuela has established import licensing requirements for numerous agricultural products, including corn, sorghum, dairy products (for example, cheese, whey, whole milk powder, and non-fat dry milk), grapes, yellow grease, poultry, beef, pork, and soybean meal. Thus, to import any of these products, an importer must obtain a license in accordance with Venezuelan procedures. Venezuela maintains these import licensing systems and practices through numerous measures.

Venezuela requires import licenses for other agricultural products, including poultry, beef, pork, and grapes (Decreto No. 989, Gaceta Official No. 5,039 Extraordinaria (February 9, 1996)), but does not appear to have published any resolutions, decrees, official notices, or any other measures establishing applicable import licensing procedures.

Venezuela's import licensing system for all of these agricultural products appears to establish a discretionary import licensing regime. Through its import licensing practices, Venezuela has also failed to establish a transparent and predictable system for issuing import licenses and has severely restricted and distorted trade in these goods. Such practices include Venezuela's failure to publish rules and information concerning its licensing procedures, its failure to process applications in a timely fashion, its failure to make licenses valid for a period of reasonable duration, and its administration of tariff-rate quotas so as to discourage their full utilization. In addition, in several cases Venezuela has tied the issuance of licenses to the purchase, consumption, or use of domestic products or investment in domestic production. At least twice Venezuela has explicitly banned the importation of corn by suspending the granting of import license until domestic production has been removed from the market.

Venezuela's import licensing systems and practices thus appear to be inconsistent with numerous WTO obligations. Specifically, Venezuela's measures appear inconsistent with Article 4.2 of the Agreement on Agriculture, Articles II, X, XI, and XIII of GATT 1994, Article 2.1 of the TRIMs Agreement, and Articles 1.4, 3.2, 3.5, 5.1, 5.2, and 5.3 of the Import Licensing Agreement. Venezuela's measures also appear to nullify or impair the benefits accruing to the United States directly under the cited agreements.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English. In order to facilitate prompt consideration of submissions, USTR strongly urges and prefers electronic e-mail submissions to the address *vzimportlicensing@ustr.gov,* in response to this notice. In the event that an e-mail submission is impossible, submissions should be made by facsimile to Sandy McKinzy at the number given above. It is preferred that documents be submitted as either WordPerfect (''.WPD''), MSWord (''.DOC''), or text (''.TXT'') files. To the extent possible, any data attachments to the submission should be included in the same file as the submission itself, and not as separate files. Facsimile submissions should include the following information at the top of the first page, and e-mail submissions should include the following information in the subject line: ''Venezuela Import Licensing Dispute.''

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' (if possible in a contrasting color ink) at the top of each page of each copy. For any document containing business confidential information submitted by electronic transmission, the file name of the business confidential version should begin with the characters ''BC'', and the file name of the public version should begin with the characters ''P''. The ''P'' or ''BC'' should be followed by the name of the commenter. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in

a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' in a contrasting color ink at the top of each page of each copy, or appropriately name the electronic file submitted containing such material; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/DS–275, Venezuela Import Licensing Dispute) may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 03–2706 Filed 2–4–03; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Peoria, Fulton, and McDonough Counties, Illinois

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for the construction of a proposed four-lane highway in west central Illinois through portions of Peoria, Fulton, and McDonough Counties. The proposed highway, Illinois 336 (FAP 315), will extend from Peoria to Macomb, Illinois.

FOR FURTHER INFORMATION CONTACT: Norman R. Stoner, P.E., Division Administrator, Federal Highway Administration, 3250 Executive Park Drive, Springfield, Illinois 62703, Phone: (217) 492–4600.

Joseph E. Crowe, P.E., District Engineer, Illinois Department of Transportation, 401 Main Street, Peoria, Illinois 61602–1111, Phone: (309) 671–3333.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Illinois Department of Transportation will prepare an Environmental Impact Statement (EIS) on a proposal to develop a four-lane highway between Peoria and Macomb Illinois. Three feasible corridors previously identified by Illinois DOT will be re-evaluated and one corridor will be selected for further study. The selected corridor will be presented at a public hearing. Alternate alignments will be studied within the selected corridor once it has been identified. Alternates studied will address engineering and environmental concerns in order to determine an alignment location that meets the transportation needs of the region and minimizes the impacts to the environment. Alignment studies will determined one preferred alignment location and address types of facility, preliminary interchange geometrics and engineering, and identify environmental impacts. Preliminary measures to minimize harm, probable construction cost estimates, and estimated right-of-way requirements will be developed. A second hearing will beheld to present the final preferred alignment.

The proposed action will enhance travel efficiency within the study area, improve transportation continuity, improve rural access, and help reduce further economic and population decline in the counties served by this highway. Several alignment alternatives, including the no-action alternative, will be evaluated for the proposed project. Intersections/interchanges will be provided at all major high-volume roadways. Primary resources that may be affected are agricultural and, property tax income, wetlands, and woodlands.

The scoping process undertaken as part of this project will include the distribution of a scoping informational packet, coordination with appropriate Federal, State, and local agencies, and review sessions, as needed. A study group comprised of local officials will be established to provide input during development and refinement of alternatives. A scoping packet may be obtained from one of the contact people listed above.

To ensure that the full range of issues related to this proposed action are addressed, and all substantive issues are identified, public involvement activities will be conducted as part of this study. Public informational meetings, public hearings, newsletters and interest group meetings will provide opportunities for public involvement. The project's Draft EIS will be available for public and agency review prior to the public hearing. The time and location of the public hearings will be announced in local newspapers. Comments or questions concerning this proposed action and the Draft EIS should be directed to FHWA or the Illinois Department of Transportation at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Dated: January 30, 2003.

J.D. Stevenson,

(FHWA Signature Line).

[FR Doc. 03–2785 Filed 2–4–03; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2002–14181]

Insurance Cost Information Regulation

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

ACTION: Notice of availability.

SUMMARY: This notice announces publication by NHTSA of the 2003 text and data for the annual insurance cost information booklet that all car dealers must make available to prospective purchasers, pursuant to 49 CFR 582.4. This information is intended to assist prospective purchasers in comparing differences in passenger vehicle collision loss experience that could affect auto insurance costs.

ADDRESSES: Interested persons may obtain a copy of this booklet by contacting the U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. [Docket hours are from 10 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Chief, Consumer Standards Division, NHTSA, 400 Seventh Street SW., Washington, DC 20590 (202–366–0846).

SUPPLEMENTARY INFORMATION: Pursuant to section 201(e) of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 1941(e), on March 5, 1993, 58 FR 12545, the National Highway Traffic Safety Administration (NHTSA) amended 49 CFR part 582, *Insurance Cost Information Regulation*, to require all dealers of automobiles to distribute to prospective customers information that compares differences in insurance costs of different makes and models of passenger cars based on differences in damage susceptibility. On March 17, 1994, NHTSA denied a petition submitted by the National Automobile Dealers Association (NADA) for NHTSA to reconsider part 582 insofar as it requires all automobile dealers to prepare the requisite number of copies for distribution of the insurance cost information to prospective purchasers. 59 FR 13630.

On March 24, 1995, NHTSA published a Final Rule to amend part 582 in a number of respects. 60 FR 15509. These changes included wording clarifications and a change in the availability date of the booklet.

Pursuant to 49 CFR 582.4, all automobile dealers are required to make available to prospective purchasers booklets that include this comparative information as well as certain mandatory explanatory text that is set out in section 582.5. Early each year, NHTSA publishes the annual **Federal Register** document updating the Highway Loss Data Institute's (HLDI) December Insurance Collision Report. Booklets reflecting the updated data must be available for distribution to prospective purchasers without charge within 30 days from the date of the **Federal Register**.

NHTSA is mailing a copy of the 2003 booklet to each dealer on the mailing list that the Department of Energy uses to distribute the ''Gas Mileage Guide.'' Dealers will have the responsibility of reproducing a sufficient number of copies of the booklet to assure that they are available for retention by prospective purchasers by March 7, 2003. Dealers who do not receive a copy of the booklet within 15 days of the date of this notice should contact Ms. Rosalind Proctor of NHTSA's Office of Planning and Consumer Standards (202) 366–0846 to receive a copy of the booklet and to be added to the mailing list. Dealers may also obtain a copy of the booklet through the NHTSA web page at: *www.nhtsa.dot.gov/cars/problems/studies/InsCost*.

(49 U.S.C. 32302; delegation of authority at 49 CFR 1.50(f).)

Issued on: January 30, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–2699 Filed 2–4–03; 8:45 am]

BILLING CODE 4910–59–U

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2003–14371; Notice 1]

Cooper Tire & Rubber Company; Receipt of Application for Decision of Inconsequential Noncompliance

Cooper Tire & Rubber Company (Cooper) has determined that certain Mastercraft Avenger GT brand tires in the P275/60R15 size do not meet the labeling requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 109, ''New Pneumatic Tires.'' Pursuant to 49 U.S.C. 30118(d) and 30120(h), Cooper has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.''

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

The noncompliance with S4.3(e) relates to the mold number. The Findlay, Ohio tire manufacturing facility had one (1) Mold involved in production during the twenty-third and thirty-second production weeks of 2002 in which one size designation was incorrectly stated. The subject tires were molded with the correct size designation P275/60R15 on both upper sidewalls and on the lower sidewall area on the DOT serial number side. However, on the side opposite the DOT serial number, they were stamped with an incorrect size designation of P275/80R15 in the lower sidewall area.

The incorrect size designation was removed from the mold and the correct side designation inserted; however, prior to the mold being correctly stamped, 5,706 tires were inadvertently shipped marked with the one incorrect size designation.

Cooper states that the incorrect size designation on each tire does not present a safety-related defect. The incorrect marking is the series designation. In the two most prominent locations and the serial side of the tire, the series designation is correct. Additionally, there is not a P275/15 manufactured in an 80 series. The noncompliant tires produced from the involved mold during the aforementioned production periods comply with all other requirements of 49 CFR 571.109.

Interested persons are invited to submit written data, views, and arguments on the application described above. Comments should refer to the docket number and be submitted to: U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below. Comment closing date: March 7, 2003.

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: January 30, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–2701 Filed 2–4–03; 8:45 am]

BILLING CODE 4910–59–U

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–2003–14307 (Notice No. 03–1)]

Information Collection Activities

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

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, RSPA invites comments on certain information collections pertaining to hazardous materials transportation for which RSPA intends to request approval

from the Office of Management and Budget (OMB).

DATES: Interested persons are invited to submit comments on or before April 7, 2003.

ADDRESSES: Submit written comments to the Dockets Management System, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001. Comments should identify the Docket Number RSPA–2003–14307 and be submitted in two copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. Comments may also be submitted to the docket electronically by logging onto the Dockets Management System Web site at *http://dms.dot.gov*. Click on ''Help & Information'' to obtain instructions for filing the document electronically. In every case, the comment should refer to the Docket number ''RSPA–2003–14307.''

The Dockets Management System is located on the Plaza Level of the Nassif Building, at the above address. Public dockets may be reviewed between the hours of 9 a.m. to 5 p.m., Monday through Friday, excluding Federal holidays. In addition, the Notice and all comments can be reviewed on the Internet by accessing the Hazmat Safety Homepage at *http://hazmat.dot.gov*.

Anyone is able to search the electronic form of all comments received into any of our documents by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov*.

Requests for a copy of an information collection should be directed to Deborah Boothe or T. Glenn Foster, Office of Hazardous Materials Standards (DHM–10), at the address and telephone number listed below.

FOR FURTHER INFORMATION CONTACT: Deborah Boothe or T. Glenn Foster, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8422, 400 Seventh Street, SW, Washington, DC 20590–0001, Telephone (202) 366–8553.

SUPPLEMENTARY INFORMATION: Section 1320.8(d), Title 5, Code of Federal Regulations requires that RSPA (we) provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies information collections that we are submitting to OMB for extension. The information collections are contained in the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180). We have revised burden estimates, where appropriate, to reflect current reporting levels based on changes in proposed or final rules published since the information collections were last approved. The following information is provided for each information collection: (1) Title of the information collection, including former title if a change is being made; (2) OMB control number; (3) summary of the information collection activity; (4) description of affected public; (5) estimate of total annual reporting and recordkeeping burden; and (6) frequency of information collection. We will request a three-year term of approval for each information collection activity and, when approved by OMB, publish notice of the approval in the **Federal Register**. We request comments on the following information collection requests:

Title: Rail Carriers and Tank Car Tanks Requirements.

OMB Control Number: 2137–0559.

Summary: This information collection consolidates and describes the information collection provisions in parts 172, 173, 174, 179, and 180 of the HMR on the transportation of hazardous materials by rail and the manufacture, qualification, maintenance and use of tank cars. The interested reader should refer to the table in 49 CFR 171.6 for a complete listing of sections covered by this information collection. The types of information collected include:

(1) *Approvals of the Association of American Railroads (AAR) Tank Car Committee:* An approval is required from the AAR Tank Car Committee for a tank car to be used for a commodity other than those specified in part 173 and on the certificate of construction. This information is used to ascertain whether a commodity is suitable for transportation in a tank car. AAR approval also is required for an application for approval of designs, materials and construction, conversion or alteration of tank car tanks constructed to a specification in part 179 or an application for construction of tank cars to any new specification. This information is used to ensure that the design, construction or modification of a tank car or the construction of a tank car to a new specification is performed in accordance with the applicable requirements.

(2) *Progress reports:* Each owner of a tank car subject to the requirements of § 173.31(b) shall submit a progress report to the Federal Railroad Administration (FRA). This information is used by FRA to ensure that all affected tank cars are modified before the regulatory compliance date.

(3) *FRA approvals:* An approval is required from FRA to transport a bulk packaging (such as a portable tank, IM portable tank, intermediate bulk container, cargo tank, or multi-unit tank car tank) containing a hazardous material in container-on-flat-car or trailer-on-flat-car service other than as authorized by § 174.63. FRA uses this information to ensure that the bulk package is properly secured using an adequate restraint system during transportation. FRA approval is also required for the movement of any tank car that does not conform to the applicable requirements in the HMR. We proposed (September 30 1999; 64 FR 53169) to broaden this provision to include the movement of covered hopper cars, gondola cars, and other types of railroad equipment when they no longer conform to Federal law but may safely be moved to a repair location. These latter movements are currently being reported under the information collection for exemption applications.

(4) *Manufacturer reports and certificate of construction:* These documents are prepared by tank car manufacturers and are used by owners, users and FRA personnel to verify that rail tank cars conform to the applicable specification.

(5) *Quality Assurance Program:* Facilities that build, repair and ensure the structural integrity of tank cars are required to develop and implement a quality assurance program. This information is used by the facility and DOT compliance personnel to ensure that each tank car is constructed or repaired in accordance with the applicable requirements.

(6) *Inspection reports:* A written report must be prepared and retained for each tank car that is inspected and tested in accordance with § 180.509 of the HMR. Rail carriers, users, and the FRA use this information to ensure that rail tank cars are properly maintained and in safe condition for transporting hazardous materials.

Affected Public: Manufacturers, owners and rail carriers of tank cars.

Annual Reporting and Recordkeeping: 2,759.

Number of Respondents: 260.

Total Annual Responses: 16,640.

Total Annual Burden Hours: 2,759.

Frequency of Collection: Annually.

Title: Rulemaking, Exemption, and Preemption Requirements.

OMB Control Number: 2137–0051.

Summary: This collection of information applies to rulemaking procedures regarding the Hazardous Materials Regulations (HMR). Specific areas covered in this information collection include Part 105, Subpart B and Subpart C, ''Hazardous Materials Program Definitions and General Procedures,'' Part 106, Subpart B, ''Participating in the Rulemaking Process,'' Part 107, Subpart B, ''Exemptions,'' Part 107, Subpart C, ''Preemption.'' The Federal hazardous materials transportation law directs the Secretary of Transportation to prescribe regulations for the safe transportation of hazardous materials in commerce. We are authorized to accept petitions for rulemaking and appeals, as well as applications for exemptions, preemption determinations and waivers of preemption. The types of information collected include:

(1) *Petitions for Rulemaking:* Any person may petition the Office of Hazardous Materials Standards to add, amend, or delete a regulation in Parts 110, 130, 171 through 180, or may petition the Office of the Chief Counsel to add, amend, or delete a regulation in Parts 105, 106 or 107.

(2) *Appeals:* Except as provided in § 106.40(e), any person may submit an appeal to our actions in accordance with the Appeals procedures found in §§ 106.110 through 106.130.

(3) *Application for Exemption:* Any person applying for an exemption must include the citation of the specific regulation from which the applicant seeks relief; specification of the proposed mode or modes of transportation; detailed description of the proposed exemption (*e.g.*, alternative packaging, test procedure or activity), including as appropriate, written descriptions, drawings, flow charts, plans and other supporting documents, etc.

(4) *Application for Preemption Determination:* Any person directly affected by any requirement of a State, political subdivision, or Indian tribe may apply to the Associate Administrator for a determination whether that requirement is preempted under 49 U.S.C. 5125, or regulations issued thereunder. The application must include the text of the State or political subdivision or Indian tribe requirement for which the determination is sought; specify each requirement of the Federal hazardous material transportation law or the regulations issued thereunder with which the applicant seeks the State, political subdivision or Indian tribe requirement to be compared; explanation of why the applicant believes the State or political subdivision or Indian tribe requirement should or should not be preempted under the standards of § 5125 (*see also* 49 CFR 107.202); and how the applicant is affected by the State or political subdivision or Indian tribe requirements.

(5) *Waivers of Preemption:* With the exception of requirements preempted under 49 U.S.C. 5125(c), any person may apply to the Associate Administrator for a waiver of preemption with respect to any requirement that: (1) The State or political subdivision thereof or an Indian tribe acknowledges is preempted under the Federal hazardous material transportation law or the regulations issued thereunder, or (2) that has been determined by a court of competent jurisdiction to be so preempted. The Associate Administrator may waive preemption with respect to such requirement upon a determination that such requirement affords an equal or greater level of protection to the public than is afforded by the requirement of the Federal hazardous material transportation law or the regulations issued thereunder and does not unreasonably burden commerce.

The information collected under these application procedures is used in the review process by RSPA in determining the merits of the petitions for rulemakings and for reconsideration of rulemakings, as well as applications for exemptions, preemption determinations and waivers of preemption to the HMR. The procedures governing these petitions for rulemaking and for reconsideration of rulemakings are covered in subpart B of part 106. Applications for exemptions, preemption determinations and waivers of preemption are covered under subparts B and C of part 107. Rulemaking procedures enable RSPA to determine if a rule change is necessary, is consistent with public interest, and maintains a level of safety equal to or superior to that of current regulations. Exemption procedures provide the information required for analytical purposes to determine if the requested relief provides for a comparable level of safety as provided by the HMR. Preemption procedures provide information for RSPA to determine whether a requirement of a State, political subdivision, or Indian tribe is preempted under 49 U.S.C. 5125, or regulations issued thereunder, or whether a waiver of preemption should be issued.

Affected Public: Shippers, carriers, packaging manufacturers, and other affected entities.

Total Reporting and Recordkeeping Burden: 4,219.

Number of Respondents: 3,304.

Total Annual Responses: 4,294.

Total Annual Burden Hours: 4,219.

Frequency of Collection: Periodically.

Issued in Washington, DC, on January 30, 2003.

Edward T. Mazzullo,

Director, Office of Hazardous Materials Standards.

[FR Doc. 03–2698 Filed 2–4–03; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Transportation Security Administration

[Docket No. TSA–2002–11604]

Security Programs For Aircraft 12,500 Pounds Or More

AGENCY: Transportation Security Administration (TSA), DOT.

ACTION: Notice.

SUMMARY: This notice announces an extension of time for compliance with the final security program for operators of aircraft with a maximum certificated takeoff weight of 12,500 or more pounds. TSA is extending the time from February 1 to April 1, 2003.

DATES: Security program compliance date: April 1, 2003.

FOR FURTHER INFORMATION CONTACT: Lon Siro or Gail Richards by telephone: (571) 227–2217 or (571) 271–2216 respectively; or by e-mail *lon.siro@tsa.dot.gov* or *gail.richards@tsa.dot.gov*. You may also mail any comments or questions concerning this action to Lon Siro or Gail Richards, Aviation Operations, Room 11080S, East Tower, Transportation Security Administration, 400 Seventh Street, SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION: On February 22, 2002, TSA published a final rule in the **Federal Register** (67 FR 8205), known as the ''Twelve-Five Rule,'' that, in part, required new security measures for operators of aircraft with a maximum certificated takeoff weight of 12,500 pounds or more. Under the rule, these operators must adopt and carry out certain security measures approved by TSA, generally known as the ''Twelve-Five Security Program.''

As published, the effective date of the Twelve-Five Rule was June 24, 2002. This document does not alter that date. On August 28, 2002 (67 FR 55308), TSA issued a notice that established a schedule for comments on the proposed

security program and a date for compliance with the final security program. Security programs constitute sensitive security information (SSI), which are disclosed only to persons with a need to know, in accordance with 49 CFR part 1520. Therefore, the Twelve-Five Security Program may be distributed only to affected operators. In that notice, TSA required all affected aircraft operators to be in compliance with the final security program by February 1, 2003.

TSA provided the proposed Twelve-Five Security Program to affected operators and analyzed all comments received concerning the program. TSA prepared a final security program and has forwarded it to all twelve-five operators. TSA has prepared a training program to ensure that all operators receive the training required by the final security program. In addition, TSA has developed a fingerprint collection process that will enable all affected operators to complete the fingerprint-based criminal history records checks of their flightcrew members, as required by the Twelve-Five Rule.

However, TSA must provide the industry with sufficient time to train employees and fingerprint crew members, and completion of these tasks is not possible by February 1, 2003. Therefore, TSA is extending the security program compliance date to April 1, 2003.

Issued in Washington, DC, on January 30, 2003.

Stephen J. McHale,

Deputy Administrator.

[FR Doc. 03–2800 Filed 1–31–03; 3:51 pm]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Transportation Security Administration

[Docket No. TSA–2002–12394]

Aviation Security: Security Program for Certain Private Charter Operations

AGENCY: Transportation Security Administration (TSA), DOT.

ACTION: Notice.

SUMMARY: This notice extends the date on which aircraft operators engaged in non-governmental private charter passenger operations on large aircraft must be in compliance with the final private charter security program, from February 1 to April 1, 2003.

DATES: Security program compliance date: April 1, 2003.

FOR FURTHER INFORMATION CONTACT: Lon Siro or Gail Richards by telephone: (571) 227–2217 or (571) 227–2216 respectively; by e-mail *lon.siro@tsa.dot.gov* or *gail.richards@tsa.dot.gov*. You may also mail any comments or questions concerning this action to Lon Siro or Gail Richards, Aviation Operations, Room 11080S, East Tower, Transportation Security Administration, 400 Seventh Street, SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION: On June 19, 2002, TSA published a final rule in the **Federal Register** (67 FR 41635) that, in part, requires new security measures for non-governmental private charter passenger operations in certain large aircraft. Under the rule, these operators must adopt and carry out a security program approved by TSA to ensure that passengers and their accessible property are screened prior to boarding. The effective date of the rule was August 19, 2002, and this document does not change that effective date.

On August 28, 2002, TSA published a notice (67 FR 55309) that established a schedule for affected operators to comment on the proposed security program and a date on which affected operators would have to be in compliance with the final approved security program. The compliance date for the final security program was set for February 1, 2003.

In addition, on December 31, 2002 (67 FR 79881), TSA published an amendment to the final rule in response to comments received, which altered the aircraft subject to the rule. The private charter security standards now apply to non-governmental private charter operations in aircraft with a maximum certificated takeoff weight greater than 45,500 kg or a seating configuration of 61 or more.

Security programs constitute sensitive security information (SSI), which can be disclosed only to persons with a need to know, in accordance with 49 CFR part 1520. Therefore, the proposed private charter security program was distributed for comment only to the operators subject to the rule. TSA received comments on the proposed security program and has amended the program, where appropriate, to accommodate the comments received. TSA is in the process of providing the final security program to affected entities, and has completed a training program for the operators to use to ensure that they operate in accordance with the security program. However, the affected operators have not had sufficient time to complete the training and establish a compliant security program. Therefore, TSA is extending the date for compliance to April 1, 2003.

Issued in Washington, DC, on January 30, 2003.

Stephen J. McHale,

Deputy Administrator.

[FR Doc. 03–2799 Filed 1–31–03; 3:51 pm]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Transportation Security Administration

Intercity Bus Security Grant Program; Notice Modifying the Closing Date for Receipt of Applications Under the Intercity Bus Security Grant Program

AGENCY: Transportation Security Administration, Department of Transportation.

Authority: 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.

ACTION: Notice modifying deadline for receipt of applications.

SUMMARY: This notice extends the closing date previously established for receipt of applications under the Intercity Bus Security Grant Program (Program Announcement #02MLPA0002) in 68 FR 2634, Jan. 17, 2003. Applications must be received on or before 4 p.m. EST, March 19, 2003.

ADDRESSES: Program Announcement #02MLPA002 and application forms for the Intercity Bus Security Grant Program are available through the TSA Internet at *http://www.tsa.dot.gov* under Business Opportunities and Industry Partners.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Heying, Transportation Security Administration, Office of Maritime and Land Security, 400 7th Street, SW., TSA–8, Washington, DC 20590, (phone: 571–227–1252, e-mail: *Mary.Heying@tsa.dot.gov*), or Mr. Tony Corio (phone: 571–227–1233, e-mail: *Tony.Corio@tsa.dot.gov*).

Dated: January 30, 2003.

Richard E. Bennis,

Assistant Administrator, Office of Maritime and Land Security.

[FR Doc. 03–2654 Filed 2–4–03; 8:45 am]

BILLING CODE 4110–62–M

DEPARTMENT OF THE TREASURY

President's Commission on the United States Postal Service

AGENCY: Department of the Treasury, Departmental Offices.

ACTION: Notice of meeting.

SUMMARY: Notice is given of a meeting of the President's Commission on the United States Postal Service.

DATES: The meeting will be held on Thursday, February 20, 2003 from 8:30 a.m. to approximately 4 p.m.

ADDRESSES: The meeting will be held at The Hotel Washington, 15th Street and Pennsylvania Avenue, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Roger Kodat, Designated Federal Official, (202) 622–7073.

SUPPLEMENTARY INFORMATION: At the public meeting, the Commission will examine some of the issues that help define the United States Postal Service's business model. These issues include the Postal Service's universal service obligation, the price-regulation system, and the Postal Service's corporate governance structure. Witnesses will testify at the invitation of the Commission. Seating is limited to a maximum of 300 on a first-come, first-served basis.

Dated: January 31, 2003.

Roger Kodat,

Designated Federal Official.

[FR Doc. 03–2708 Filed 2–4–03; 8:45 am]

BILLING CODE 4811–16–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 03–03]

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[No. 2003–03]

Joint Report: Differences in Accounting Standards Among the Federal Banking and Thrift Agencies; Report to Congressional Committees

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: Report to the Committee on Financial Services of the United States House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the United States Senate regarding differences in capital and accounting standards among the federal banking and thrift agencies.

SUMMARY: The OCC, Board, FDIC, and OTS (the agencies) have prepared this report pursuant to section 37(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831n(c)). Section 37(c) requires the Agencies to jointly submit an annual report to the Committee on Financial Services of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate describing differences between the accounting and capital standards used by the agencies. The report must be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

OCC: Nancy Hunt, Risk Expert (202–874–4923), Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: John Connolly, Supervisory Financial Analyst (202–452–3621), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

FDIC: Robert F. Storch, Chief, Accounting and Securities Disclosure Section (202–898–8906), Division of Supervision and Consumer Protection, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Michael D. Solomon, Senior Program Manager for Capital Policy (202–906–5654), Supervision Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The text of the report follows:

Report to the Committee on Financial Services of the United States House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the United States Senate Regarding Differences in Accounting and Capital Standards Among the Federal Banking Agencies

Introduction

The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (the Federal banking agencies or the agencies) must jointly submit an annual report to the Committee on Financial Services of the U.S. House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the U.S. Senate describing differences between the accounting and capital standards used by and among the agencies. The report must be published in the **Federal Register**. This report covers differences existing as of December 31, 2002.

This is the first joint annual report on differences in accounting and capital standards to be submitted pursuant to Section 37(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831n(c)), as amended. Prior to this report, each agency reported separately.

Section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4803) in part directs the agencies to work jointly to make uniform all regulations and guidelines implementing common statutory or supervisory policies. The results of these efforts must be ''consistent with the principles of safety and soundness, statutory law and policy, and the public interest.''

Since the agencies filed their first reports under this reporting requirement in 1991, the agencies have acted in concert on numerous occasions to modify their accounting and capital standards and to harmonize the four sets of standards so as to eliminate as many differences as possible. In particular, the agencies have revised their capital standards to address changes in credit and certain other risk exposures within the banking system, thereby rendering the amount of capital institutions are required to hold generally more commensurate with the credit risk and certain other risks to which they are exposed. Some of the few remaining capital differences are statutorily mandated. Some were significant historically but now no longer affect in a measurable way, either individually or in the aggregate, institutions supervised by the Federal banking agencies.

As a result, the Federal banking agencies now have substantially similar leverage and risk-based capital standards. These standards employ a common regulatory framework that establishes minimum capital adequacy ratios for all banking organizations (banks, bank holding companies and savings associations). In 1989, all four agencies adopted risk-based capital frameworks that were based upon the international capital accord (the Basel Accord) developed by the Basel Committee on Banking Regulations and Supervisory Practices (Basel

Supervisors' Committee) and endorsed by the central bank governors of the G–10 countries. The agencies view the risk-based capital and leverage requirements as minimum standards, and most institutions are expected to operate with capital levels well above the minimums, particularly those institutions that are expanding or experiencing unusual or high levels of risk.

The OCC, the FRB, and the FDIC, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), have developed uniform Reports of Condition and Income (Call Reports) for all insured commercial banks and FDIC-supervised savings banks. The OTS requires each OTS-supervised savings association to file the Thrift Financial Report (TFR). The reporting standards for recognition and measurement in the Call Report and the TFR are consistent with generally accepted accounting principles (GAAP). Thus, there are no significant differences in regulatory accounting standards for regulatory reports filed with the Federal banking agencies. Only one minor difference remains between the accounting standards of the OTS and those of the other Federal banking agencies, and that difference relates to push-down accounting, as more fully explained below.

Differences in Capital Standards Among the Federal Banking Agencies

Subordinate Organizations Other Than Financial Subsidiaries

Banks supervised by the OCC, the FRB, and the FDIC generally consolidate all significant majority-owned subsidiaries, including banking and finance subsidiaries, of the parent banking organization for regulatory capital purposes. This practice assures that capital requirements are related to the risks to which the banking organization is exposed. When banking and finance subsidiaries are not consolidated for financial reporting purposes under GAAP, the aggregate amount of investments in such subsidiaries is deducted from a bank's total capital.

For other subsidiaries that are not consolidated on a line-for-line basis for financial reporting purposes, joint ventures, and associated companies, the parent banking organization's investment in each such entity may be treated in any of three ways for risk-based capital purposes, depending upon the circumstances: the entity's balance sheet may be consolidated on a *pro-rata* basis, the banking organization's investment in the entity may be deducted entirely from capital, or the banking organization's investment in the entity may be assigned to the 100 percent risk-weight category. These options for handling unconsolidated subsidiaries, joint ventures, and associated companies for purposes of determining the capital adequacy of the parent banking organization provide the agencies with the flexibility necessary to ensure that institutions maintain capital levels that are commensurate with the actual risks involved.

Under the OTS' capital regulations, a statutorily mandated distinction is drawn between subsidiaries (majority-owned) engaged in activities that are permissible for national banks and subsidiaries engaged in ''impermissible'' activities for national banks. Where subsidiaries engage in activities that are impermissible for national banks, the OTS requires the deduction of the parent's investment in these subsidiaries from the parent's assets and capital. If a subsidiary's activities are permissible for a national bank, that subsidiary's assets are generally consolidated with those of the parent on a line-for-line basis. If a subordinate organization, other than a subsidiary, engages in impermissible activities, the OTS will generally deduct investments in and loans to such organization. If a subordinate organization, other than a subsidiary, engages solely in permissible activities, the OTS may, depending upon the nature and risk of the activity, either assign investments in and loans to such organizations to the 100 percent risk-weight category or require full deduction of the investments and loans.

Financial Subsidiaries

The Gramm-Leach-Bliley Act (GLBA) amends the National Banking Act to permit national banks to conduct certain expanded financial activities through financial subsidiaries. Section 121(a) of the GLBA (12 U.S.C. 24a) imposes a number of conditions and requirements upon national banks that have financial subsidiaries, including specifying the treatment that applies for regulatory capital purposes. The statute requires that a national bank deduct from assets and tangible equity the aggregate amount of its equity investments in financial subsidiaries. The statute further requires that the financial subsidiary's assets and liabilities not be consolidated with those of the parent national bank for applicable capital purposes.

GLBA also amends the Federal Deposit Insurance Act to provide that an insured State bank is, among other limitations, subject to the capital deduction and deconsolidation requirements that apply to a national bank if the State bank holds an interest in a subsidiary that engages as principal in activities that would only be permissible for a national bank to conduct through a financial subsidiary. Under section 121(d) of GLBA (12 U.S.C. 1831w), a State bank that holds an interest in any financial subsidiary—whether conducting activities as a principal or agent—must comply with all of the same conditions that apply to a national bank, including the capital deduction and deconsolidation requirement. The OCC, the FDIC, and the FRB adopted final rules implementing their respective provisions of section 121 of GLBA for national banks in March 2000, for state nonmember banks in January 2001, and for state member banks in August 2001. GLBA did not provide new authority to OTS-regulated institutions to own, hold or operate financial subsidiaries, as defined.

Nonfinancial Equity Investments

Under final rules jointly published by the OCC, the FRB, and the FDIC, on January 25, 2002 (67 FR 3783), subject to certain exceptions, covered equity investments in nonfinancial companies are subject to a Tier 1 capital charge (for both risk-based and leverage capital purposes) that increases in steps as the banking organization's level of concentration in equity investments increases. The GLBA authorizes financial holding companies, which are bank holding companies granted expanded investment and activity authority by the GLBA, to acquire or control shares, assets, or ownership interests of any nonfinancial company as part of a bona fide underwriting, or merchant or investment banking activity. Banks and bank holding companies supervised by the OCC, the FDIC, or the FRB also have authority, which predated GLBA, to make limited equity investments in nonfinancial companies under various other legal authorities.

OTS-regulated holding companies grandfathered by GLBA have no statutory limits on their investments. Nongrandfathered holding companies may make equity investments in nonfinancial companies of the type authorized for financial holding companies (*e.g., bona fide* underwriting or merchant or investment banking activity). The OTS does not prescribe specific capital regulations for OTS-regulated holding companies.

Collateralized Transactions

The FRB and the OCC assign a zero percent risk weight to certain claims collateralized by cash on deposit in the institution or by securities issued or guaranteed by the U.S. government, U.S. government agencies, or the central governments of other countries that are members of the Organization of Economic Cooperation and Development (OECD). To qualify for the zero percent risk weight, the OCC and the FRB rules require the collateral to be marked-to-market daily and a positive margin of collateral protection to be maintained daily. The FRB requires qualifying claims to be fully collateralized, while the OCC rule permits partial collateralization.

The FDIC and the OTS assign a 20 percent risk weight to claims collateralized by cash on deposit in the institution or by securities issued or guaranteed by the U.S. government, U.S. government agencies, or other OECD central governments.

In a final interagency rule assigning a 20 percent risk weight to certain claims on qualifying securities firms, which was published in the **Federal Register** on April 9, 2002, (67 FR 16971), the FDIC and the OTS conformed their rules to assign a zero percent risk weight to certain collateralized claims on qualifying securities firms that are marked to market daily and have a positive margin of collateral. The rule became effective July 1, 2002. The actions taken by the FDIC and the OTS in adopting the April 9, 2002, rule for claims on qualifying securities firms eliminates a portion of the capital difference regarding collateralized transactions between these agencies and the OCC and the FRB.

Noncumulative Perpetual Preferred Stock

Under the Federal banking agencies' capital standards, noncumulative perpetual preferred stock is a component of Tier 1 capital. The capital standards of the OCC, the FRB, and the FDIC require noncumulative perpetual preferred stock to give the issuer the option to waive the payment of dividends and to provide that waived dividends neither accumulate to future periods nor represent a contingent claim on the issuer.

The practical effect of these requirements is that if a bank supervised by the OCC, the FRB, or the FDIC issues perpetual preferred stock and is required to pay dividends in a form other than cash—*e.g.*, stock—when cash dividends are not or cannot be paid, the bank does not have the option to waive or eliminate dividends and the stock would not qualify as noncumulative. If an OTS-supervised savings association issues perpetual preferred stock that requires the payment of dividends in the form of stock when cash dividends are not paid, the stock may, subject to supervisory approval, qualify as noncumulative.

Equity Securities of Government-Sponsored Enterprises

The FRB, the FDIC, and the OTS apply a 100 percent risk weight to equity securities of government-sponsored enterprises (GSEs), other than the 20 percent risk weighting of Federal Home Loan Bank stock held by banking organizations as a condition of membership. The OCC applies a 20 percent risk weight to all GSE equity securities. This difference arises because the OCC's risk-based capital standards specify that ''securities'' of GSEs, which includes both debt and equity securities, qualify for the 20 percent risk weight. In contrast, the risk-based capital standards of the FRB, the FDIC, and the OTS apply a 20 percent risk weight only to debt claims on these companies.

Limitation on Subordinated Debt and Limited-Life Preferred Stock

The OCC, the FRB, and the FDIC limit the amount of subordinated debt and intermediate-term preferred stock that may be treated as part of Tier 2 capital to 50 percent of Tier 1 capital. The OTS does not prescribe such a limit. In addition, for banking organizations supervised by the OCC, the FRB, and the FDIC, these maturing instruments must be discounted by 20 percent in each of the last five years before maturity. The OTS provides thrifts the option of using either the discounting approach used by the other Federal banking agencies, or an approach which, during the last seven years of the maturing instrument's life, allows for the full inclusion of all such instruments, provided that the amount maturing in any one year does not exceed 20 percent of the thrift's total capital.

Pledged Deposits, Nonwithdrawable Accounts, and Certain Certificates

The OTS capital regulations permit mutual savings associations to include in Tier 1 capital pledged deposits and nonwithdrawable accounts to the extent that such accounts or deposits have no fixed maturity date, cannot be withdrawn at the option of the accountholder, and do not earn interest that carries over to subsequent periods. The OTS also permits the inclusion of net worth certificates, mutual capital certificates, and income capital certificates complying with applicable OTS regulations in savings associations' Tier 2 capital. The OCC, the FRB, and the FDIC do not expressly address these instruments in their regulatory capital standards, and they generally are not recognized as Tier 1 or Tier 2 capital components.

Servicing Assets and Intangible Assets

The Federal banking agencies' capital rules permit servicing assets and purchased credit card relationships to be included in assets (*i.e.*, not be deducted), subject to certain limits. The aggregate regulatory capital limit on these two categories of assets is 100 percent of Tier 1 capital. However, within this overall limit, nonmortgage servicing assets are combined with purchased credit card relationships and this combined amount is limited to no more than 25 percent of an institution's Tier 1 capital. Before applying these Tier 1 capital limits, mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships are each valued at the lesser of 90 percent of their fair value or 100 percent of their book value (net of any valuation allowances).

A recent statutory change permits the agencies to eliminate this 10 percent fair value discount from their capital standards if the agencies determine that such assets can be valued at 100 percent of their book value consistent with safety and soundness. The agencies are considering how best to make such a determination. Any servicing assets and purchased credit card relationships that exceed the relevant limits, as well as all other intangible assets such as goodwill and core deposit intangibles, are deducted from capital and assets in calculating an institution's Tier 1 capital.

Although the Federal banking agencies' regulatory capital treatment of servicing assets and intangible assets is fundamentally the same, the OTS' capital rules contain one difference that, with the passage of time, continues to lose significance. Under its rules, the OTS has grandfathered, *i.e.*, does not deduct from regulatory capital, core deposit intangibles acquired before February 1994 up to 25 percent of Tier 1 capital.

Covered Assets

The OCC, the FRB, and the FDIC generally place assets subject to guarantee arrangements by the FDIC or the former Federal Savings and Loan Insurance Corporation in the 20 percent risk weight category. The OTS places

these ''covered assets'' in the zero percent risk-weight category.

Tangible Capital Requirement

Savings associations supervised by the OTS, by statute, must satisfy a 1.5 percent minimum tangible capital requirement. However, subsequent statutory and regulatory changes have imposed higher capital standards on savings associations, rendering it unlikely, if not impossible, for the 1.5 percent tangible capital requirement to function as a meaningful regulatory trigger. This statutory tangible capital requirement does not apply to institutions supervised by the OCC, the FRB, or the FDIC.

Interest Rate Risk

The OCC, the FRB, and the FDIC specifically include in their evaluation of capital adequacy an assessment of a banking organization's interest rate risk, as measured by its exposure to declines in the economic value of its capital due to changes in interest rates. In addition, these three agencies have provided guidance on sound practices for managing interest rate risk and on the standards that they use to evaluate the adequacy and effectiveness of a banking organization's interest rate risk management.

Historically, the OTS employed an explicit interest rate risk component in its capital rule, as distinct from the other banking agencies. In 2002 the OTS eliminated this explicit requirement from its standards in light of other supervisory tools that are currently available to measure and control interest rate risk. The OTS, like the other banking agencies, has provided written guidance on sound practices for managing interest rate risk, and directs examiners to take into account interest rate risk when assessing capital adequacy. The OTS' final rule brought its regulatory capital treatment of interest rate risk into line with the approach followed by the other Federal banking agencies, thereby formally eliminating a capital difference between the OTS and the other agencies.

Differences in Accounting Standards Among the Federal Banking and Thrift Agencies

Push-Down Accounting

Push-down accounting is the establishment of a new accounting basis for a depository institution in its separate financial statements as a result of a substantive change in control. Under push-down accounting, when a depository institution is purchased by another organization yet retains its separate corporate existence, the assets and liabilities of the acquired institution are restated to their fair values as of the acquisition date. These values, including any goodwill, are reflected in the separate financial statements of the acquired institution, as well as in any consolidated financial statements of the institution's parent.

The OCC, the FRB, and the FDIC require the use of push-down accounting for regulatory reporting purposes when there is a 95 percent or greater change in ownership. This approach is generally consistent with accounting interpretations issued by the staff of the Securities and Exchange Commission. The OTS requires the use of push-down accounting when there is a 90 percent or greater change in ownership.

Dated: January 29, 2003.

John D. Hawke, Jr.,

Comptroller of the Currency.

Dated: January 28, 2003.

By order of the Board of Governors of the Federal Reserve System.

Jennifer J. Johnson,

Secretary of the Board.

Dated in Washington, DC this 29th day of January, 2003.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: January 24, 2003.

By the Office of Thrift Supervision.

James E. Gilleran,

Director.

[FR Doc. 03–2780 Filed 2–4–03; 8:45 am]

BILLING CODE 4810–33, 6210–01, 6714–01 and 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

Research and Development Office; Government Owned Invention Available for Licensing

AGENCY: Research and Development Office, VA.

ACTION: Notice of government owned invention available for licensing.

SUMMARY: The invention listed below is owned by the U.S. Government as represented by the Department of Veterans Affairs, and is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on the invention may be obtained by writing to: Mindy Aisen, MD, Department of Veterans Affairs, Director Technology Transfer Program, Research and Development Office, 810 Vermont Avenue NW., Washington, DC 20420; fax: 202–275–7228; e-mail at *mindy.aisen@mail.va.gov.* Any request for information should include the Number and Title for the relevant invention as indicated below. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The invention available for licensing is: PCT/US02/11088 ''Methods for Modeling Infectious Disease and Chemosensitivity in Cultured Cells and Tissues''

Dated: January 28, 2003.

Anthony J. Principi,

Secretary, Department of Veterans Affairs.

[FR Doc. 03–2664 Filed 2–4–03; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Capital Asset Realignment for Enhanced Services (CARES) Commission Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Capital Asset Realignment for Enhanced Services (CARES) Commission will meet on Wednesday, February 19, 2003, from 8:30 a.m. to 5 p.m. and Thursday, February 20, 2003, from 8:30 a.m. to 5 p.m. The meeting will be held at the Jefferson Hotel in the Monticello Room, 1200 16th Street, NW., Washington, DC. The meeting is open to the public.

The purpose of the Commission is to conduct an external assessment of VA's capital asset needs and to assure that stakeholder and beneficiary concerns are fully addressed. The Commission will consider recommendations prepared by VA's Under Secretary for Health, veterans service organizations, individual veterans, Congress, medical school affiliates, VA employees, local government entities, community groups and others. Following its assessment, the Commission will make specific recommendations to the Secretary of Veterans Affairs regarding the realignment and allocation of capital assets necessary to meet the demands

for veterans health care services over the next 20 years.

This is the initial meeting of the Commission. On February 19, the agenda topics for this meeting will include background briefings on the CARES and an overview of the nine-step CARES process. On February 20, the Commission will discuss operating rules, future meeting topics and schedules, subcommittee assignments, and hearings. Also, the Commission members will receive an ethics briefing.

Interested persons may either attend or file statements with the Commission. Written statements may be filed either before the meeting or within 10 days after the meeting and addressed to: Department of Veterans Affairs, CARES Commission, 810 Vermont Avenue, NW., Washington, DC 20420. Any member of the public wishing additional information should contact Mr. Richard E. Larson at (202) 273–4800.

Dated: January 30, 2003.

By Direction of the Secretary.

Nora E. Egan,

Committee Management Officer.

[FR Doc. 03–2665 Filed 2–4–03; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Wednesday,
February 5, 2003

Part II

Securities and Exchange Commission

17 CFR Parts 228, 229 and 249
Disclosure in Management's Discussion and Analysis About Off-Balance Sheet Arrangements and Aggregate Contractual Obligations; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 228, 229 and 249

[Release Nos. 33–8182; 34–47264; FR–67 International Series Release No. 1266 File No. S7–42–02]

RIN 3235–AI70

Disclosure in Management's Discussion and Analysis About Off-Balance Sheet Arrangements and Aggregate Contractual Obligations

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: As directed by new section 13(j) of the Securities Exchange Act of 1934, added by section 401(a) of the Sarbanes-Oxley Act of 2002, we are adopting amendments to our rules to require disclosure of off-balance sheet arrangements. The amendments require a registrant to provide an explanation of its off-balance sheet arrangements in a separately captioned subsection of the ''Management's Discussion and Analysis'' (''MD&A'') section of a registrant's disclosure documents. The amendments also require registrants (other than small business issuers) to provide an overview of certain known contractual obligations in a tabular format.

DATES: *Effective Date:* April 7, 2003. *Compliance Date:* Registrants must comply with the off-balance sheet arrangement disclosure requirements in registration statements, annual reports and proxy or information statements that are required to include financial statements for their fiscal years ending on or after June 15, 2003. Registrants (other than small business issuers) must include the table of contractual obligations in registration statements, annual reports, and proxy or information statements that are required to include financial statements for the fiscal years ending on or after December 15, 2003. Registrants may voluntarily comply with the new disclosure requirements before the compliance dates.

FOR FURTHER INFORMATION CONTACT: Questions about this release should be referred to Andrew Thorpe, Special Counsel, Division of Corporation Finance ((202) 942–2910), Jenifer Minke-Girard, Associate Chief Accountant, or Eric Schuppenhauer, Professional Accounting Fellow, Office of the Chief Accountant ((202) 942–4400), Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: We are adopting amendments to Item 303 [1] of Regulation S–K,[2] Item 303 [3] of Regulation S–B,[4] Item 5 of Form 20–F [5] and General Instruction B of Form 40–F [6] under the Securities Exchange Act of 1934.[7]

Table of Contents

I. Background

On July 30, 2002, the Sarbanes-Oxley Act of 2002 was enacted.[8] section 401(a) of the Sarbanes-Oxley Act added section 13(j) to the Securities Exchange Act of 1934,[9] which requires the Commission to adopt final rules by January 26, 2003 (180 days after the date of enactment) to require each annual and quarterly financial report required to be filed with the Commission, to disclose ''all material off-balance sheet transactions, arrangements, obligations (including contingent obligations), and other relationships of the issuer with unconsolidated entities or other persons, that may have a material current or future effect on financial condition, changes in financial condition, results of operations, liquidity, capital expenditures, capital resources, or significant components of revenues or expenses.'' [10] In November 2002, we published for comment a proposed rulemaking to implement Section 401(a) [11] and to codify interpretive guidance set forth in our January 2002 Commission Statement.[12]

The Commission has long recognized the need for a narrative explanation of financial statements and accompanying footnotes and has developed MD&A over the years to fulfill this need.[13] The disclosure in MD&A is of paramount importance in increasing the transparency of a company's financial performance and providing investors with the disclosure necessary to evaluate a company and to make informed investment decisions. MD&A also provides a unique opportunity for management to provide investors with an understanding of its view of the financial performance and condition of the company, an appreciation of what the financial statements show and do not show, as well as important trends and risks that have shaped the past or are reasonably likely to shape the future.

The MD&A rules already require disclosure regarding off-balance sheet arrangements and other contingencies. They are designed to cover a wide range of corporate events, including events, variables and uncertainties not otherwise required to be disclosed under U.S. generally accepted accounting principles (''GAAP'').[14] For

[1] 17 CFR 229.303.

[2] 17 CFR 229.10 *et seq.*

[3] 17 CFR 228.303.

[4] 17 CFR 228.10 *et seq.*

[5] 17 CFR 249.220f.

[6] 17 CFR 249.240f.

[7] 15 U.S.C. § 78a *et seq.*

[8] Pub. L. 107–204, 116 Stat. 745 (2002).

[9] 15 U.S.C. 78m(j).

[10] Pub. L. 107–204 Sec. 401(a).

[11] *See* Release No. 33–8144 (Nov. 4, 2002) [67 FR 68054] (the ''Proposing Release'').

[12] *See* Release No. 33–8056, FR–61 (Jan. 22, 2002) [67 FR 3746] (the ''Commission Statement''). That statement was issued in response to a petition from Arthur Andersen LLP, Deloitte and Touche LLP, Ernst & Young LLP, KPMG LLP, and PricewaterhouseCoopers LLP, with the endorsement of the American Institute of Certified Public Accountants, for an interpretive release to facilitate enhanced MD&A disclosures. *See* Rulemaking Petition No. 4–450 (Dec. 31, 2001).

[13] *See, e.g.,* Release No. 33–5443 (Dec. 12, 1973) [39 FR 829].

[14] In *In the Matter of Caterpillar Inc.,* Release No. 34–30532 (March 31, 1992), the Commission found that Caterpillar had violated section 13(a) of the Exchange Act [15 U.S.C. 78m(a)] by failing to have disclosed the magnitude of its Brazilian subsidiary's contribution to Caterpillar's overall earnings. Disclosure of the extent of that contribution was required under the MD&A disclosure requirements, even though disclosure was not required under GAAP, because the subsidiary's earnings materially affected Caterpillar's reported income from continuing operations. *See* Item 303(a)(3)(i) of Regulation S–K [17 CFR 229.303(a)(3)(i)].

example, the current MD&A rules require disclosure of:

- Information necessary to an understanding of the registrant's financial condition, changes in financial condition and results of operations;[15]
- Any known trends, demands, commitments, events or uncertainties that will result in, or that are reasonably likely to result in, the registrant's liquidity increasing or decreasing in any material way;[16]
- The registrant's internal and external sources of liquidity, and any material unused sources of liquid assets;[17]
- The registrant's material commitments for capital expenditures as of the end of the latest fiscal period;[18]
- Any known material trends, favorable or unfavorable, in the registrant's capital resources, including any expected material changes in the mix and relative cost of capital resources, considering changes between debt, equity and any off-balance sheet financing arrangements.[19]
- Any unusual or infrequent events or transactions or any significant economic changes that materially affected the amount of reported income from continuing operations and, in each case, the extent to which income was so affected.[20]
- Significant components of revenues or expenses that should, in the company's judgment, be described in order to understand the registrant's results of operations;[21]
- Known trends or uncertainties that have had, or that the registrant reasonably expects will have, a material favorable or unfavorable impact on net sales or revenues or income from continuing operations.[22]
- Matters that will have an impact on future operations and have not had an impact in the past;[23] and
- Matters that have had an impact on reported operations and are not expected to have an impact upon future operations.[24]

Accordingly, while only one item in our current MD&A rules specifically identifies off-balance sheet arrangements,[25] the other items clearly require disclosure of off-balance sheet arrangements if necessary to an understanding of a registrant's financial condition, changes in financial condition or results of operations. As discussed below, the amendments clarify disclosures that registrants must make with regard to off-balance sheet arrangements, require registrants to set apart disclosure relating to off-balance sheet arrangements in a designated section of MD&A and (except in the case of small business issuers) require tabular disclosure of aggregate contractual obligations.[26]

II. Overview of Proposals, Comments and Amendments

A. Proposing Release

In November 2002, we published for comment proposals to require disclosure of a registrant's off-balance sheet arrangements in its MD&A.[27] To address the scope of the disclosure contemplated by the Sarbanes-Oxley Act, the proposals included a definition of the term ''off-balance sheet arrangement'' that covered a wide variety of arrangements. The proposed rules defined the term ''off-balance sheet arrangement'' as any transaction, agreement or other contractual arrangement to which an entity that is not consolidated with the registrant is a party, under which the registrant, whether or not a party to the arrangement, has, or in the future may have:

- Any obligation under a direct or indirect guarantee or similar arrangement;
- A retained or contingent interest in assets transferred to an unconsolidated entity or similar arrangement;
- Derivatives, to the extent that the fair value thereof is not fully reflected as a liability or asset in the financial statements; or
- Any obligation or liability, including a contingent obligation or liability, to the extent that it is not fully reflected in the financial statements (excluding the footnotes thereto).

Because the Sarbanes-Oxley Act refers to off-balance sheet arrangements that ''may'' have a material future effect on the registrant, the proposed rules included a threshold for determining which off-balance sheet arrangements would have such an effect. In particular, the proposals would have required disclosure where the likelihood of either the occurrence of a future event implicating an off-balance sheet arrangement, or its material effect, was higher than remote. The proposed disclosure threshold departed from the existing MD&A threshold, under which a company must disclose information that is ''reasonably likely'' to have a material effect on financial condition, changes in financial condition or results of operations.[28]

The proposals contained specific items designed to elicit comprehensive information about a registrant's off-balance sheet arrangements that would provide investors with a clear understanding of the registrant's business activities, financial arrangements and financial statements. To filter out disclosure of insignificant details, the proposals would have required disclosure of enumerated items only ''to the extent necessary to an understanding of the registrant's off-balance sheet arrangements and their effect on financial condition, changes in financial condition and results of operations.'' The proposals would have required a registrant to disclose:

- The nature and business purpose of the registrant's off-balance sheet arrangements;
- The significant terms and conditions of the arrangements;
- The nature and amount of the total assets and of the total obligations and liabilities of an unconsolidated entity

---

Furthermore, Caterpillar's MD&A should have discussed various factors which contributed to the subsidiary's earnings, such as currency translation gains, export subsidies, interest income, and Brazilian tax loss carry-forwards, because such items were significant components of its revenues that should have been identified and addressed in order for a reader of the company's financial statements to understand Caterpillar's results of operations. *Id.*

[15] *See* Item 303(a) of Regulation S–K [17 CFR 229.303(a)].

[16] *See* Item 303(a)(1) of Regulation S–K [17 CFR 229.303(a)(1)].

[17] *Id.*

[18] *See* Item 303(a)(2)(i) of Regulation S–K [17 CFR 229.303(a)(2)(i)].

[19] *See* Item 303(a)(2)(ii) of Regulation S–K [17 CFR 229.303(a)(2)(ii)].

[20] *See* Item 303(a)(3)(i) of Regulation S–K [17 CFR 229.303(a)(3)(i)].

[21] *Id.*

[22] *See* Item 303(a)(3)(iii) of Regulation S–K [17 CFR 229.303(a)(3)(iii)].

[23] *See* Instruction 3(A) to Item 303(a) of Regulation S–K [17 CFR 229.303(a)].

[24] *See* Instruction 3(B) to Item 303(a) of Regulation S–K [17 CFR 229.303(a)].

[25] *See* Item 303(a)(2)(ii) of Regulation S–K [17 CFR 229.303(a)(2)(ii)].

[26] The Sarbanes-Oxley Act exempts from section 401 investment companies registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8). *See* Pub. L. 107–204 Sec. 405 [15 U.S.C. 7263]. Therefore, registered investment companies are excluded from the scope of the amendments. The amendments apply, however, to business development companies. Business development companies are defined in section 2(a)(48) of the Investment Company Act of 1940. *See* 15 U.S.C. 80a–2(a)(48). Business development companies are a category of closed-end investment companies that are not required to register under the Investment Company Act, but file Forms 10–K and 10–Q, and also include MD&A in their annual reports to shareholders.

[27] *See* Release No. 33–8144 (Nov. 4, 2002) [67 FR 68054].

[28] In a January 2002 Commission Statement, we indicated our view that ''reasonably likely'' is a lower disclosure threshold than ''more likely than not.'' *See* Release No. 33–8056, FR–61 (Jan. 22, 2002) [67 FR 3746] (the ''Commission Statement'').

that conducts off-balance sheet activities;

- The amounts of revenues, expenses and cash flows, the nature and amount of any retained interests, securities issued or other indebtedness incurred, or any other obligations or liabilities (including contingent obligations or liabilities) of the registrant arising from the arrangements that are, or may become, material and the circumstances under which they could arise;
- Management's analysis of the material effects of the above items, including an analysis of the degree to which the registrant relies on off-balance sheet arrangements for its liquidity and capital resources or market risk or credit risk support or other benefits; and
- A reasonably likely termination or material reduction in the benefits of an off-balance sheet arrangement and any material effects.

We also proposed to require registrants to provide tabular disclosure of contractual obligations and either tabular or textual disclosure of contingent liabilities and commitments. With regard to the proposed table of contractual obligations, the proposed disclosure included amounts of a registrant's known contractual obligations, aggregated by type of obligation and by time period in which payments are due. The proposed disclosure of contingent liabilities and commitments required registrants to disclose, either in text or in tabular format, the expected amount, range of amounts or maximum amount of contingent liabilities and commitments, aggregated by type and by time period of the expiration of the commitment.

B. Overview of Comments and Amendments

We received responses to our proposals from 48 commenters.[29] Generally, the major issues raised by the responses fell into four categories: (1) The scope of the proposed definition of ''off-balance sheet arrangements;'' (2) the proposed disclosure threshold; (3) the proposed disclosure requirements for off-balance sheet arrangements; and (4) the scope of the proposed disclosure of contractual obligations and contingent liabilities and commitments. The commentary provided useful perspective on the practical issues that registrants would face in applying the proposed rules.

1. Proposed Definition of ''Off-Balance Sheet Arrangements''

While some commenters expressed general support for the proposed definition of ''off-balance sheet arrangements,'' [30] the majority expressed the view that the definition was too broad and in need of further clarification.[31] In particular, several commenters believed that the proposed definition included routine transactions that would not typically be considered to be ''off-balance sheet arrangements'' (*e.g.*, executory contracts, employment agreements, consulting agreements, leases, licenses, royalty contracts, minimum purchase commitments, guarantees under customer contracts, and employee pension plan and postretirement benefit arrangements).[32] Eight commenters suggested that the definition should focus on the types of unconsolidated entities that are typically used to conduct off-balance sheet activities, such as structured finance entities or special purpose entities (''SPEs'').[33] One commenter suggested that the definition should focus on off-balance sheet arrangements used as a financing, liquidity or risk-sharing technique.[34] Six commenters either were confused by, or opposed to, our proposal to include obligations or liabilities ''not fully reflected in the financial statements.''[35] Finally, eight commenters recommended that we should reconcile apparent discrepancies between the elements of the proposed definition and the corollary accounting concepts embodied in GAAP.[36]

At the commenters' suggestion, we are adopting a revised definition of ''off-balance sheet arrangement'' to clarify its scope. We agree that certain modifications of the proposed definition are necessary to eliminate disclosure of routine arrangements that could obscure more meaningful information. Accordingly, we have revised the definition to incorporate concepts from U.S. GAAP.[37] We believe that the inclusion of references in the definition to U.S. GAAP help narrow the scope of arrangements that require more transparent disclosure under the amendments. The same types of off-balance sheet arrangements covered by the definition must be discussed in the MD&A regardless of the particular GAAP under which a registrant presents its primary financial statements. We are not imposing U.S. GAAP on foreign private issuers with respect to the preparation of their primary financial statements.

2. Proposed Disclosure Threshold

The proposed rules would have required disclosure of off-balance sheet arrangements that ''may have a material current or future effect.'' The proposed rules stated that disclosure of an arrangement was not necessary ''if the likelihood of either the occurrence of an event implicating an off-balance sheet arrangement, or the materiality of its effect, is remote.'' We indicated that the proposed threshold of disclosure would have been lower than the current MD&A standard of ''reasonably likely to have a material effect.'' We requested commentary on whether the proposed threshold was consistent under section 401(a) or whether a ''reasonably likely'' threshold was appropriate. Most commenters suggested that the final rule should incorporate the ''reasonably likely'' disclosure threshold that is currently found in MD&A rules,[38] while

[29] The commenters are as follows: *Accounting Firms:* BDO Seidman LLP (''BDO''); Deloitte & Touche LLP (''D&T''); Ernst & Young LLP (''E&Y''); KPMG LLP (''KPMG''); PricewaterhouseCoopers LLP (''PwC''). *Law Firms:* Cleary, Gottlieb, Steen & Hamilton (''Cleary''); Fried, Frank, Harris, Shriver & Jacobson (''Fried Frank''); Sullivan & Cromwell (''S&C''); Troutman Sanders LLP (''Troutman''). *Associations:* American Bar Association (''ABA''); American Institute of Certified Public Accountants (''AICPA''); American Society of Corporate Secretaries (''ASCS''); America's Community Bankers (''ACB''); Association for Financial Professionals (''AFP''); Association of the Bar of the City of New York (''NY City Bar''); Edison Electric Institute (''EEI''); Financial Executives International (''FEI''); Interfaith Council on Corporate Accountability (''CANICCOR''); Investment Company Institute (''ICI''); Investment Counsel Association of America (''ICAA''); National Association of Real Estate Investment Trusts (''NAREIT''); New York County Lawyer's Association (''NYCLA''); New York State Bar Association (''NYBA''); Organization for International Investment (''OFII''); Rose Foundation for Communities & Environment (''Rose''); Securities Industry Association (''SIA''). *Corporations:* Boeing Company (''Boeing''); Centex Corporation; (''Centex''); Compass Bancshares, Inc. (''Compass''); Computer Sciences Corporation (''CSC''); Constellation Energy Group (''CEG''); Eaton Corporation (''Eaton''); Eli Lilly and Company (''Lilly''); Emerson Electric Corporation (''Emerson''); First Tennessee National Corporation (''FTNC''); Ford Motor Company (''Ford''); IMC Global Inc. (''IMC''); Intel Corporation (''Intel''); Kellogg Company (''Kellogg''); Pfizer Inc. (''Pfizer''). *Individuals:* Barbara Barry (''Barry''); Robert Beard, C.P.A. (''Beard''); Kevin Bronner, Ph.D. (''Bronner''); Dave Henseler (''Henseler''); Timothy O'Keefe (''O'Keefe''); Ralph Saul (''Saul''). *Governmental Bodies:* European Commission (''EC'').

[30] *See, e.g.,* the letters of Compass, Emerson, Fried Frank, ICAA, IMC and PwC.

[31] *See, e.g.,* the letters of ABA, ACB, AICPA, Boeing, CEG, CSC, D&T, Eaton, EEI, E&Y, FTNC, Kellogg, KPMG, Pfizer and S&C.

[32] *See, e.g.,* the letters of ABA, ACB, AICPA, CEG, Centex, CSC, D&T, Eaton, EEI, E&Y, Kellogg, KPMG, NY City Bar and PwC.

[33] *See, e.g.,* the letters of ABA, ACB, Centex, CSC, D&T, E&Y, KPMG and NY City Bar.

[34] *See* the letter of ABA.

[35] *See, e.g.,* the letters of BDO, Compass, D&T, FTNC, Intel and S&C.

[36] *See, e.g.,* the letters of ACB, AICPA, Boeing, CEG, D&T, EEI, E&Y and Pfizer.

[37] *See* Discussion in Section III.A.

[38] *See, e.g.*, the letters of ABA, ACB, AICPA, ASCS, Boeing, CEG, Cleary, Compass, CSC, D&T, Eaton, EEI, E&Y, Fried Frank, ICAA, IMC, Intel,

three commenters supported the disclosure threshold as proposed.[39] In addition, many commenters stated that the ''reasonably likely'' threshold is an appropriate interpretation of the Sarbanes-Oxley Act.[40] Many commenters opposed the proposed threshold because they thought that it would: be difficult for management to apply; yield voluminous disclosures; attribute undue prominence to information that is not important to investors; confuse or mislead investors; and elicit information that would not be comparable among firms.[41] Some commenters indicated that the ''reasonably likely'' threshold is preferable because it would provide investors with the information that management considers important, as opposed to more speculative information that registrants would disclose under a lower threshold.[42] Several commenters believed that it would be preferable to have consistency throughout MD&A by adopting the ''reasonably likely'' standard.[43]

After considering the comments, we are adopting the ''reasonably likely'' disclosure threshold that we currently apply to other portions of MD&A disclosure.[44] We believe that the ''reasonably likely'' threshold best promotes the utility of the disclosure requirements by reducing the possibility that investors will be overwhelmed by voluminous disclosure of insignificant and possibly unnecessarily speculative information.[45] We have found no express reference in the legislative history conclusively demonstrating Congress' intent in using the word ''may.'' After considering the comments, we conclude that the ''reasonably likely'' standard focuses on the information most important to an understanding of a registrant's off-balance sheet arrangements and their material effects on the registrant's financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources. In addition, we are mindful of the potential difficulty that registrants would have faced in attempting to comply with the ''remote'' disclosure threshold set forth in the Proposing Release. We also believe that our use of a consistent disclosure threshold throughout MD&A will preclude the potential confusion that could result from disparate thresholds.

3. Proposed Disclosure Requirements

While some commenters supported the proposed disclosure requirements,[46] others believed the proposals to be overly prescriptive and detail-oriented.[47] Eight commenters stated that the proposed disclosure would be voluminous, would not be useful or would be confusing to investors.[48] Three commenters expressed concerns about the sensitivity and potential competitive harm of the required disclosures.[49] In addition, seven commenters suggested that we should adopt a more flexible, principles-based approach to the MD&A disclosures.[50]

Another area of concern was whether it is feasible to expect a registrant to be able to obtain information about the activities of unconsolidated entities over which it may not have control.[51] For example, some commenters believed that companies might be unable to obtain, monitor or evaluate certain information about unconsolidated entities that conduct off-balance sheet activities (*e.g.*, certain multi-party conduits or third parties that benefit from a pre-existing guarantee of the registrant).[52]

After carefully evaluating the comments, we are adopting disclosure requirements that are more consistent with the principles-based approach found in current MD&A rules. The principle throughout the amendments is that the registrant should disclose information to the extent that it is necessary to an understanding of a registrant's material off-balance sheet arrangements and their material effects on financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources. Consistent with traditional MD&A disclosure, management has the responsibility to identify and address the key variables and other qualitative and quantitative factors that are peculiar to, and necessary for, an understanding and evaluation of the company.[53] The amendments contain the following four specific items to bolster the principles-based approach. These items require disclosure of the following information to the extent necessary for an understanding of a registrant's off-balance sheet arrangements and their effects:

- The nature and business purpose of the registrant's off-balance sheet arrangements;[54]
- The importance of the off-balance sheet arrangements to the registrant for liquidity, capital resources, market risk or credit risk support or other benefits;[55]
- The financial impact of the arrangements on the registrant (*e.g.*, revenues, expenses, cash flows or securities issued) and the registrant's exposure to risk as a result of the arrangements (*e.g.*, retained interests or contingent liabilities);[56] and
- Known events, demands, commitments, trends or uncertainties that affect the availability or benefits to the registrant of material off-balance sheet arrangements.[57]

In addition, the amendments contain another principles-based requirement, similar to that used elsewhere in MD&A, that the registrant provide other information that it believes to be necessary for an understanding of its off-balance sheet arrangements and their material effects on the registrant's financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources.[58]

KPMG, Lilly, NAREIT, NYBA, NY City Bar, Pfizer, PwC and S&C.

[39] *See, e.g.*, the letters of Beard, CANICCOR and IMC.

[40] *See, e.g.*, the letters of ABA, ACB, AICPA, CEG, Cleary, Compass, CSC, D&T, EEI, E&Y, Fried Frank, Lilly, NYBA, NY City Bar, Pfizer, PwC and S&C.

[41] *See, e.g.*, the letters of ACB, AICPA, ASCS, Boeing, CEG, Cleary, Compass, CSC, D&T, EEI, FEI, Fried Frank, ICAA, KPMG, Lilly, NAREIT, NYBA, NY City Bar, Pfizer, PwC and S&C.

[42] *See, e.g.*, the letters of Fried Frank, KPMG and Pfizer.

[43] *See, e.g.*, the letters of ABA, ACB, AICPA, ASCS, CEG, CSC, D&T, Eaton, EEI, Fried Frank, FTNC, ICAA, Intel, KPMG, Lilly, NAREIT, NYBA, NY City Bar, Pfizer, PwC and S&C.

[44] *See* Discussion in Section III.B.

[45] In June 2002, we proposed amendments to require registrants to file current reports on Form 8–K in the event of the creation of a direct or contingent material financial obligation or the occurrence of an event triggering a direct or contingent material financial obligation. *See* Release No. 33–8106 (June 17, 2002) [67 FR 42914]. If adopted, those current reporting requirements will keep investors apprised of material contingent obligations arising from off-balance sheet arrangements even if these fall below the ''reasonably likely'' threshold that we are adopting for MD&A disclosure.

[46] *See, e.g.*, the letters of ICI, IMC, D&T, NYBA, Pfizer and PwC.

[47] *See, e.g.*, the letters of Cleary, CSC, FTNC, NY City Bar and S&C.

[48] *See, e.g.*, the letters of ACB, AFP, Boeing, CSC, FTNC, Cleary, NY City Bar and S&C.

[49] *See, e.g.*, the letters of AFP, Boeing and Pfizer.

[50] *See, e.g.*, the letters of BDO, Cleary, CSC, FTNC, NY City Bar, Pfizer and S&C.

[51] *See, e.g.*, the letters of ABA, ACB, AICPA, Boeing, CSC, IMC, KPMG and Pfizer.

[52] *Id.*

[53] *See* Release No. 33–6349 (Sept. 28, 1981).

[54] *See, e.g.*, Item 303(a)(4)(i)(A) of Regulation S–K [17 CFR 229.303(a)(4)(i)(A)].

[55] *See, e.g.*, Item 303(a)(4)(i)(B) of Regulation S–K [17 CFR 229.303(a)(4)(i)(B)].

[56] *See, e.g.*, Item 303(a)(4)(i)(C) of Regulation S–K [17 CFR 229.303(a)(4)(i)(C)].

[57] *See, e.g.*, Item 303(a)(4)(i)(D) of Regulation S–K [17 CFR 229.303(a)(4)(i)(D)].

[58] *See, e.g.*, Item 303(a)(4)(i) of Regulation S–K [17 CFR 229.303(a)(4)(i)].

We have eliminated one aspect of the proposed disclosure requirements after considering the public commentary. The amendments do not require a registrant to disclose the nature and amount of the total assets and total obligations of an unconsolidated entity that conducts off-balance sheet activities on behalf of the registrant. Commenters indicated that it might be impracticable to obtain, monitor or evaluate information about unconsolidated entities that are unaffiliated with the registrant.[59] We believe that information regarding the nature and amount of assets transferred to an unconsolidated entity is more pertinent than a listing of the total assets and liabilities of that entity. We also believe that it may be necessary for a registrant to disclose the nature and amount of assets transferred to an unconsolidated entity in fulfilling its requirement to explain the nature and business purpose of an off-balance sheet arrangement.

4. Proposed Tabular and Textual Disclosure

Six commenters generally supported the proposed disclosure of contractual obligations and contingent liabilities and commitments,[60] while four commenters opposed it.[61] Two commenters expressed support for the proposed table of contractual obligations, but not for contingent liabilities and commitments.[62] Four commenters believed that the disclosure would not improve transparency,[63] and at least 13 commenters requested guidance or clarification on how to implement the disclosure requirements.[64]

Many of the commenters urged us to further limit and define the types of contractual obligations and contingent liabilities and commitments that would be subject to the new disclosure requirements.[65] For example, some commenters believed that the disclosure should exclude purchase orders and contracts for goods and services in the ordinary course of business, as well as items for which GAAP would not require any disclosure in the financial statements and footnotes.[66] In addition, some commenters suggested that we limit the disclosure of contractual obligations and commitments to contracts requiring cash payment.[67] Some commenters suggested that the disclosure of contingent liabilities should cover only ''commercial commitments,'' to be defined by the rule [68] and should exclude loss contingencies from litigation, arbitration or regulatory proceedings.[69]

In addition, many commenters believed that the disclosure would impose a large, new compliance burden on registrants by requiring them to aggregate and assess multiple contracts and commitments.[70] Three commenters suggested that the disclosure should include a materiality threshold to help a registrant avoid the burden of identifying and evaluating insignificant contracts, contingencies or commitments.[71] Finally, five commenters believed that the rule should exclude notes, drafts, acceptances, bills of exchange or other commercial instruments with a maturity of one year or less issued in the ordinary course of business.[72]

After evaluating the comments received, we have modified the required table of contractual obligations. Contrary to the proposed rules, which only suggested the categories of contractual obligations to be included, the amendments specify that the following categories of contractual obligations must be included within the table:

- Long-term debt obligations;
- Capital lease obligations;
- Operating lease obligations;
- Purchase obligations; and
- Other long-term liabilities reflected on the registrant's balance sheet under GAAP.

The preparation of financial statements in accordance with GAAP already requires registrants to assess payments under all of the above categories of contractual obligations, except for purchase obligations. To aid registrants in preparing the table, the amendments define the first four categories of contractual obligations.[73] For issuers that present their primary financial statements in accordance with U.S. GAAP, we have defined the first three categories by referencing the relevant U.S. GAAP accounting pronouncements that require disclosure of these obligations in a registrant's financial statements or footnotes. The definition of ''purchase obligations'' is designed to capture the registrant's capital expenditures for purchases of goods or services over a five-year period. The fifth category captures all other long-term liabilities that are reflected on the registrant's balance sheet under the registrant's applicable GAAP.

The amendments require disclosure of the amounts of a registrant's purchase obligations without regard to whether notes, drafts, acceptances, bills of exchange or other commercial instruments will be used to satisfy such obligations because those instruments could have a significant effect on the registrant's liquidity. The purpose of this new disclosure requirement is to obtain enhanced disclosure concerning a registrant's contractual payment obligations, and the exclusion of commercial instruments would be inconsistent with that objective. Adoption of certain other suggestions of commenters, such as an exclusion of ordinary course items, a limitation to items reflected in financial statements or notes under GAAP or a materiality threshold would also be inconsistent with the objective.

We are not adopting a disclosure requirement for contingent liabilities and commitments. We believe that meaningful disclosure of contingent liabilities and commitments is not necessarily best accomplished by an aggregated disclosure format (either tabular or textual) because such a format would inevitably omit important information about the operative facts and circumstances of contingent liabilities and commitments (*e.g.*, triggering events, probability of occurrence or recourse provisions). In addition, we note that a number of new accounting [74] and disclosure

[59] *See, e.g.*, the letters of ABA, ACB, AICPA, Boeing, CSC, IMC, KPMG and Pfizer.

[60] *See, e.g.*, the letters of ACB, Compass, CSC, ICAA, IMC and Pfizer.

[61] *See, e.g.*, the letters of ABA, Eaton, Emerson and NY City Bar.

[62] *See, e.g.*, the letters of AICPA and E & Y.

[63] *See, e.g.*, the letters of Eaton, Emerson, NY City Bar and Troutman.

[64] *See, e.g.*, the letters of ABA, ACB, BDO, Centex, D & T, Eaton, Emerson, ICAA, Kellogg, NYBA, NY City Bar, Rose and Troutman.

[65] *See, e.g.*, the letters of Centex, D & T, Eaton, Ford, FTNC, ICAA, IMC, Intel, Kellogg, NY City Bar and Pfizer.

[66] *See, e.g.*, the letters of BDO, Centex, D & T, Emerson, Kellogg and NY City Bar.

[67] *See, e.g.*, the letters of Centex and D & T.

[68] *See, e.g.*, the letters of AICPA, E & Y, D & T, NYBA and PwC.

[69] *See, e.g.*, the letters of AICPA, Eaton, E & Y, D & T, Intel, Troutman and PwC.

[70] *See, e.g.*, the letters of ABA, Centex, Eaton, Ford and NY City Bar.

[71] *See, e.g.*, the letters of Centex, IMC and NY City Bar.

[72] *See, e.g.*, the letters of Beard, CSC, IMC, NYBA and Pfizer.

[73] *See, e.g.*, Item 303(a)(5)(ii) of Regulation S–K [17 CFR 229.303(a)(5)(ii)]. We are unable to follow a similar approach for registrants whose financial statements are prepared in accordance with a non-U.S. GAAP. An instruction, however, makes clear that such a registrant should base the categories of contractual obligations (except ''purchase obligations'') on the classifications used in the GAAP under which its primary financial statements are prepared. *See, e.g.*, Instruction 2 to Item 5.F of Form 20–F [17 CFR 249.220f].

[74] *See, e.g.*, Financial Accounting Standards Board (''FASB'') Interpretation No. 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of*

requirements, including these amendments, address a registrant's contingent liabilities and commitments and may obviate the need for this additional disclosure requirement. We will, however, continue to assess the costs and benefits of an MD & A disclosure requirement for aggregate contingent liabilities and commitments in connection with our ongoing review of MD & A.[75] Pending future Commission action on the subject, registrants should refer to the existing guidance in our Commission Statement to consider whether it would be beneficial to investors to include tabular disclosure of aggregate commercial commitments.[76]

III. Discussion of Amendments

A. Definition of ''Off-Balance Sheet Arrangement''

The definition of ''off-balance sheet arrangement'' primarily targets the means through which companies typically structure off-balance sheet transactions or otherwise incur risks of loss that are not fully transparent to investors. For example, in many cases, in order to facilitate a transfer of assets or otherwise finance the activities of an unconsolidated entity, a company must provide financial support designed to reduce risks to the entity or other third parties. That financial support may assume many different forms, such as financial guarantees, subordinated retained interests, keepwell agreements,[77] derivative instruments or other contingent arrangements that expose the registrant to continuing risks or material contingent liabilities.[78] To appropriately capture these transactions, the definition of ''off-balance sheet arrangement'' includes any contractual arrangement to which an unconsolidated entity is a party, under which the registrant has:

- Any obligation under certain guarantee contracts;[79]
- A retained or contingent interest in assets transferred to an unconsolidated entity or similar arrangement that serves as credit, liquidity or market risk support to that entity for such assets;
- Any obligation under certain derivative instruments;[80]
- Any obligation under a material variable interest [81] held by the registrant in an unconsolidated entity that provides financing, liquidity, market risk or credit risk support to the registrant, or engages in leasing, hedging or research and development services with the registrant.

1. Guarantees

The definition of ''off-balance sheet arrangements'' addresses certain guarantees that may be a source of potential risk to a registrant's future liquidity, capital resources and results of operations, regardless of whether or not they are recorded as liabilities. The definition borrows concepts from U.S. GAAP in order to identify the types of guarantee contracts for which disclosure is required. The references to U.S. GAAP apply regardless of the particular GAAP under which a registrant presents its primary financial statements.

The first element of the definition refers to any obligation under a guarantee contract that has any of the characteristics identified in paragraph 3 of FIN 45, and that is not excluded from the initial recognition and measurement provisions of FIN 45.[82] Paragraph 3 of FIN 45 includes within its scope any contract with one or more of the following four characteristics:

- Contracts that contingently require the guarantor to make payments to the guaranteed party based on changes in an ''underlying'' [83] that is related to an asset, a liability or an equity security of the guaranteed party (*e.g.*, a financial standby letter of credit, a market value guarantee, a guarantee of the market price of the common stock of the guaranteed party or a guarantee of the collection of the scheduled contractual cash flows from individual financial assets held by an SPE);[84]
- Contracts that contingently require the guarantor to make payments to the guaranteed party based on another entity's failure to perform under an obligating agreement (*e.g.*, a performance guarantee); [85]
- Indemnification agreements (contracts) that contingently require the indemnifying party (guarantor) to make payments to the indemnified party (guaranteed party) based on changes in an underlying that is related to an asset, a liability or an equity security of the indemnified party (*e.g.*, an adverse judgment in a lawsuit or the imposition of additional taxes due to either a change in the tax law or an adverse interpretation of the tax law); [86] or
- Indirect guarantees of the indebtedness of others, which arise under an agreement that obligates one entity to transfer funds to a second entity upon the occurrence of specified events, under conditions whereby (a) the funds become legally available to creditors of the second entity and (b) those creditors may enforce the second entity's claims against the first entity under the agreement (*e.g.*, keepwell agreements).[87]

The definition of ''off-balance sheet arrangement'' is designed so that a registrant's application of FIN 45 will provide the basis for determining the guarantee contracts that are subject to disclosure under the amendments.[88] Paragraphs 6 and 7 of FIN 45 exclude certain guarantee contracts from the recognition and measurements provisions of FIN 45.[89] These exclusions

---

Indebtedness of Others (Nov. 2002), (''FIN 45''); and FASB Interpretation No. 46, *Consolidation of Variable Interest Entities* (Jan. 2003), (''FIN 46'').

[75] We are considering future rule proposals or interpretive releases to improve MD & A disclosure, such as requiring an overview about a company's situation and information about the trends that its management follows and evaluates in making decisions about how to guide the company's business.

[76] *See* Commission Statement, Release No. 33–8056, FR–61 (Jan. 22, 2002) [67 FR 3746] at Section II.A.3.

[77] A ''keepwell agreement'' includes any agreement or undertaking under which a company is, or would be, obligated to provide or arrange for the provision of funds or property to an affiliate or third party.

[78] For purposes of the amendments, contingent liabilities arising out of litigation, arbitration or regulatory actions are not considered to be off-balance sheet arrangements. *See, e.g.*, Instruction 3 to Paragraph 303(a)(4) of Regulation S–K [17 CFR 229.303].

[79] The guarantee contracts covered by the definition are consistent with the scope of the recently issued FIN 45.

[80] For registrants whose financial statements are prepared in accordance with U.S. GAAP, the definition includes a contract that would be accounted for as a derivative instrument, except that it is both indexed to the registrant's own stock and classified in the registrant's statement of stockholders' equity. See FASB Statement of Financial Accounting Standards (''SFAS'') No. 133, *Accounting for Derivative Instruments and Hedging Activities* (June 1998), (''SFAS No. 133''), paragraph 11a. For other registrants, the definition includes derivative instruments that are both indexed to the registrant's own stock and classified in stockholders' equity, or not reflected, in the company's statement of financial position.

[81] *See* FIN 46.

[82] *See, e.g.*, Item 303(a)(4)(ii)(A) of Regulation S–K [17 CFR 229.303(a)(4)(ii)(A)].

[83] An ''underlying'' is defined as ''a specified interest rate, security price, commodity price, foreign exchange rate, index of prices or rates, or other variable.'' *See* FIN 45 at fn. 2.

[84] *See* FIN 45, paragraph 3a.

[85] *Id.,* paragraph 3b.

[86] *Id.,* paragraph 3c.

[87] *Id.,* paragraphs 3d and 17.

[88] A registrant that prepares its financial statements in accordance with a non-U.S. GAAP must apply FIN 45 to reconcile its financial statements with U.S. GAAP.

[89] Paragraph 6 of FIN 45 excludes: guarantees issued by insurance and reinsurance companies and accounted for under specialized accounting principles for those companies; a lessee's guarantee of the residual value of leased property in a capital lease; contingent rents; vendor rebates; and guarantees whose existence prevents the guarantor from recognizing a sale or the earnings from a sale. Paragraph 7 of FIN 45 excludes: product warranties; guarantees that are accounted for as derivatives; contingent consideration in a business combination;

Continued

also will apply to the definition of ''off-balance sheet arrangements'' in the amendments.

2. Retained or Contingent Interests

As an alternative to guarantee contracts, companies may structure and facilitate off-balance sheet arrangements by retaining an interest in assets transferred to an unconsolidated entity. For example, a subordinated retained interest in a pool of receivables transferred to an unconsolidated entity can provide credit support to the entity by cushioning the senior interests in the event that a portion of the receivables becomes uncollectible. In this event, the value of the retained interest can decline and can therefore have a material effect on a registrant's financial condition. Accordingly, the second element of the definition of ''off-balance sheet arrangements'' includes retained or contingent interests in assets transferred to an unconsolidated entity or similar arrangements that serve as credit, liquidity or market risk support to such entity for such assets.[90]

3. Certain Derivative Instruments

Similar to guarantees or retained interests, certain derivative instruments have been used in structuring off-balance sheet arrangements. For example, a registrant may issue or hold derivative instruments that are indexed to its stock and classified as stockholders' equity under GAAP.[91] The impact of those derivative instruments often is not transparent to investors because those derivative instruments are classified as equity and subsequent changes in fair value may not be periodically recognized in the financial statements. Therefore, the third element of the definition includes those derivative instruments to better apprise investors of their impact. The definition for registrants whose financial statements are prepared in accordance with U.S. GAAP includes derivative instruments that are excluded from SFAS No. 133 pursuant to paragraph 11a of that Statement.[92] Similarly, the definition for registrants whose financial statements are prepared in accordance with a non-U.S. GAAP includes any obligation under a derivative instrument that is both indexed to the registrant's own stock and classified in stockholders' equity, or not reflected, in the registrant's statement of financial position.[93]

4. Variable Interests

The fourth element of the definition includes any obligation, including a contingent obligation, arising out of a material variable interest held by the registrant in an unconsolidated entity, where such entity provides financing, liquidity, market risk or credit risk support to, or engages in leasing, hedging or research and development services with, the registrant.[94] We intend for this element of the definition to be consistent with the concept of a ''variable interest'' that is included in the recently issued FASB Interpretation No. 46 (''FIN 46''). The term ''variable interest'' is defined in FIN 46 as ''contractual, ownership, or other pecuniary interests in an entity that change with changes in the entity's net asset value.''[95] In other words, variable interests are investments or other interests that will absorb a portion of an entity's expected losses if they occur or receive portions of the entity's expected residual returns if they occur.[96] To apply this element of the definition, a registrant must assess the variable interests it holds in the specified unconsolidated entities regardless of whether the entity is deemed to be a ''variable interest entity'' pursuant to paragraph 5 of FIN 46. To focus the disclosure on the most crucial off-balance sheet arrangements, however, the definition only applies to variable interests, that are material to the registrant, in entities that provide financing, liquidity, market risk or credit risk support to the registrant, or engage in leasing, hedging or research and development services with the registrant.[97]

B. Disclosure Threshold

The amendments require disclosure of off-balance sheet arrangements that either have, or are reasonably likely to have, a current or future effect on the registrant's financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that is material to investors.[98] That disclosure threshold is consistent with the existing disclosure threshold under which information that could have a material effect on financial condition, changes in financial condition or results of operations must be included in MD&A.[99]

To apply the disclosure threshold, management first must identify and critically analyze the registrant's off-balance sheet arrangements, including its guarantee contracts, retained or contingent interests, derivative instruments and variable interests. Second, management must assess the likelihood of the occurrence of any known trend, demand, commitment, event or uncertainty that could affect an off-balance sheet arrangement (*e.g.*, performance under a guarantee; an obligation under a variable interest or equity-linked or indexed derivative instrument; or recognition of an impairment). If management concludes that the known trend, demand, commitment, event or uncertainty is not reasonably likely to occur, then no disclosure is required in MD&A.[100] If management cannot make that determination, it must evaluate objectively the consequences of the known trend, demand, commitment, event or uncertainty on the assumption that it will come to fruition. Disclosure is then required unless management determines that a material effect on the registrant's financial condition, changes in financial condition, revenues or expenses, results of operations,

guarantees for which the guarantor's obligations would be reported as an equity item (rather than a liability); certain guarantees in connection with a lease restructuring; guarantees issued between either parents and their subsidiaries or corporations under common control; a parent's guarantee of a subsidiary's debt to a third party; and a subsidiary's guarantee of the debt owed to a third party by either its parent or another subsidiary of that parent.

[90] *See, e.g.,* Item 303(a)(4)(ii)(B) of Regulation S–K [17 CFR 229.303(a)(4)(ii)(B)].

[91] See FASB Emerging Issues Task Force Issue (''EITF'') No. 00–19 *Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock* (Jan. 2001). The FASB has been reevaluating the accounting treatment for such financial instruments and is expected to issue SFAS No. 149 *Accounting for Financial Instruments with Characteristics of Liabilities or Equity* in February 2003.

[92] *See* SFAS No. 133, paragraph 11a. In particular, paragraph 11a excludes contracts issued or held by a registrant that are both: (1) indexed to its own stock and (2) classified in stockholder's equity in its statement of financial position.

[93] *See, e.g.*, Item 5.E.2(c) of Form 20–F [17 CFR 249.220f].

[94] *See, e.g.*, Item 303(a)(4)(ii)(D) of Regulation S–K [17 CFR 229.303(a)(4)(ii)(D)].

[95] *See* FIN 46 at paragraph 2c.

[96] *See* FIN 46 at paragraph 6. The definition of ''off-balance sheet arrangement'' only addresses obligations arising out of a variable interest held by a registrant, and not residual returns.

[97] We identified the need for improved disclosures about entities that conduct these activities in the January 2002 Commission Statement. *See* Commission Statement, Release No. 33–8056, FR–61 (Jan. 22, 2002) [67 FR 3746] at Section II.A.2.

[98] *See, e.g.,* Item 303(a)(4)(i) of Regulation S–K [17 CFR 229.303(a)(4)(i)].

[99] *See* Release No. 33–6835 (May 18, 1989) [54 FR 22427] (the ''1989 Interpretive Release''). The January 2002 Commission Statement indicated that ''reasonably likely'' is a lower disclosure threshold than ''more likely than not.'' *See* Release No. 33–8056, FR–61 (Jan. 22, 2002) [67 FR 3746].

[100] Even if management determines that the likelihood of a material effect is not reasonably likely, disclosure may still be required in the footnotes to the financial statements. *See, e.g.*, FIN 45, paragraph 13.

liquidity, capital expenditures or capital resources is not reasonably likely to occur. Consistent with other disclosure threshold determinations that management must make in drafting MD&A, the assessment must be objectively reasonable, viewed as of the time the determination is made.[101]

C. Disclosure About Off-Balance Sheet Arrangements

The amendments require a registrant to disclose the material facts and circumstances that provide investors with a clear understanding of a registrant's off-balance sheet arrangements and their material effects. To provide flexibility to registrants and to filter out disclosure of insignificant details, the amendments require disclosure of enumerated information only to the extent necessary to an understanding of a registrant's off-balance sheet arrangements and their material effects on financial condition, changes in financial condition, revenues and expenses, results of operations, liquidity, capital expenditures and capital resources. In addition to the enumerated information, the discussion must include such other information that the registrant believes is necessary for an understanding of its off-balance sheet arrangements and the specified material effects.[102] The disclosure shall generally cover the most recent fiscal year, but it also should address changes from the previous year where such discussion is necessary to an understanding of the disclosure.[103]

Under the amendments, a registrant must disclose the nature and business purpose of the off-balance sheet arrangements.[104] This disclosure should explain to investors why a registrant engages in off-balance sheet arrangements and should provide the information that investors need to understand the business activities advanced through a registrant's off-balance sheet arrangements. For example, a registrant may indicate that the arrangements enable the company to lease certain facilities rather than acquire them, where the latter would require the registrant to recognize a liability for the financing. Other possible disclosure under this requirement may indicate that the off-balance sheet arrangement enables the registrant to readily obtain cash through sales of groups of loans to a trust; to finance inventory, transportation or research and development costs without recognizing a liability; or to lower borrowing costs of unconsolidated affiliates by extending guarantees to their creditors.

Under the amendments, a registrant must discuss the importance of its off-balance sheet arrangements to its liquidity, capital resources, market risk support, credit risk support or other benefits.[105] This disclosure should provide investors with an understanding of the importance of off-balance sheet arrangements to the registrant as a financial matter. For example, if a registrant materially relies on off-balance sheet arrangements for its liquidity and capital resources, a registrant may be required to disclose how often it securitizes financial assets, to what degree its securitizations are a material source of liquidity, whether it has materially increased or decreased securitizations from past periods and to explain such increase or decrease. Together with the other disclosure requirements, registrants should provide information sufficient for investors to assess the extent of the risks that have been transferred and retained as a result of the arrangements.

In addition, the disclosure should provide investors with insight into the overall magnitude of a registrant's off-balance sheet activities, the specific material impact of the arrangements on a registrant and the circumstances that could cause material contingent obligations or liabilities to come to fruition. Disclosure is required to the extent material and necessary to investors' understanding of:

- The amounts of revenues, expenses, and cash flows of the registrant arising from the arrangements;
- The nature and total amount of any interests retained, securities issued and other indebtedness incurred by the registrant in connection with such arrangements; and
- The nature and amount of any other obligations or liabilities (including contingent obligations or liabilities) of the registrant arising from the arrangements that are, or are reasonably likely to become, material and the triggering events or circumstances that could cause them to arise.[106]

The discussion also must identify any known event, demand, commitment, trend or uncertainty that will, or is reasonably likely to, result in the termination, or material reduction in availability to the registrant, of its off-balance sheet arrangements that provide the registrant with material benefits.[107] Under this requirement, a registrant must disclose, for example, any material contractual provisions calling for the termination or material reduction of an off-balance sheet arrangement. The disclosure also should address factors that are reasonably likely to affect the registrant's ability to continue using off-balance sheet arrangements that provide it with material benefits. For example, if a registrant's credit rating were to fall below a certain level, some off-balance sheet arrangements may require the registrant to purchase the assets or assume the liabilities of an unconsolidated entity. In addition, a change in a registrant's credit rating could either preclude or materially reduce the benefits to the registrant of engaging in off-balance sheet arrangements. In such cases, the registrant will have to disclose known circumstances that are reasonably likely to cause its credit rating to fall to the specified level and discuss the material consequences of the drop in ratings. In addition, the registrant must discuss the course of action that it has taken or proposes to take in response to a termination or material reduction in the availability of an off-balance sheet arrangement that provides material benefits.

The amendments contain a principles-based requirement stating that a registrant must provide other information that it believes to be necessary for an understanding of its off-balance sheet arrangements and the material effects of these arrangements on its financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources.[108] The disclosure should provide investors with management's insight into the impact and proximity of the potential material risks that are reasonably likely to arise from material off-balance sheet arrangements.

The amendments instruct registrants to aggregate off-balance sheet arrangements in groups or categories that provide information in an efficient and understandable manner and avoid repetition and disclosure of immaterial

[101] *See* Release No. 33–6835 (May 18, 1989) [54 FR 22427].

[102] *See, e.g.,* Item 303(a)(4)(i) of Regulation S–K [17 CFR 229.303(a)(4)(i)].

[103] *See, e.g.,* Instruction 4 to paragraph 303(a)(4) of Regulation S–K [17 CFR 229.303]. *Compare* Instruction 1 to Item 303(a) of Regulation S–K [17 CFR 229.303].

[104] *See, e.g.,* Item 303(a)(4)(i)(A) of Regulation S–K [17 CFR 229.303(a)(4)(i)(A)].

[105] *See, e.g.,* Item 303(a)(4)(i)(B) of Regulation S–K [17 CFR 229.303(a)(4)(i)(B)].

[106] *See, e.g.,* Item 303(a)(4)(i)(C) of Regulation S–K [17 CFR 229.303(a)(4)(i)(C)].

[107] *See, e.g.,* Item 303(a)(4)(i)(D) of Regulation S–K [17 CFR 229.303(a)(4)(i)(D)].

[108] *See, e.g.,* Item 303(a)(4)(i) of Regulation S–K [17 CFR 229.303(a)(4)(i)].

information.[109] Common or similar effects that may result from a number of different off-balance sheet arrangements must be analyzed in the aggregate to the extent that the aggregation increases understanding. For example, if particular triggering events or circumstances would either require a registrant to become directly obligated, or accelerate its obligations, under a number of off-balance sheet arrangements, and the overall obligations would be material, then the amendments will require an analysis of the circumstances and their aggregate effect to the extent it increases understanding. Registrants should discuss distinctions among aggregated off-balance sheet arrangements if such distinctions are material, but the discussion should avoid repetition and disclosure of immaterial information.

In light of the fact that the off-balance sheet arrangements covered under the amendments are contractual, it is appropriate to apply the Commission's policy regarding MD&A disclosure of preliminary negotiations. Therefore, the amendments include an instruction that no obligation to make disclosure of an off-balance sheet arrangement will arise until an unconditionally binding definitive agreement, subject only to customary closing conditions exists or, if there is no such agreement, when settlement of the transaction occurs.[110] That instruction is consistent with the Commission policy set forth in its 1989 Interpretive Release on disclosure of preliminary negotiations for the acquisition or disposition of assets not in the ordinary course of business.[111] In the 1989 Interpretive Release, the Commission stated that, ''where disclosure is not otherwise required, and has not otherwise been made, the MD&A need not contain a discussion of the impact of [preliminary negotiations for the acquisition or disposition of assets not in the ordinary course of business] where, in the registrant's view, inclusion of such information would jeopardize completion of the transaction.'' [112]

D. Tabular Disclosure of Contractual Obligations

Some accounting standards require disclosure concerning a registrant's obligations and commitments to make future payments under contracts, such as debt and lease agreements.[113] Information about other obligations, such as purchase contracts, may or may not be disclosed, but if disclosed, it is usually dispersed throughout a filing and may not be presented in a consistent manner among registrants. Aggregated information about a registrant's contractual obligations in a single location will provide useful context for investors to assess a registrant's short- and long-term liquidity and capital resource needs and demands. In addition, it will improve an investor's ability to compare registrants. Therefore, we are requiring registrants to disclose in a tabular format the amounts of payments due under specified contractual obligations, aggregated by category of contractual obligation, for specified time periods.[114] We are not adopting this requirement for small business issuers that file small business reporting forms.[115] The registrant must provide the information as of the latest fiscal year end balance sheet date,[116] and the table should be in substantially the same form as follows:

Contractual obligations	Payments due by period				
	Total	Less than 1 year	1–3 years	3–5 years	More than 5 years
[Long-Term Debt]					
[Capital Lease Obligations]					
[Operating Leases]					
[Purchase Obligations]					
[Other Long-Term Liabilities Reflected on the Registrant's Balance Sheet under GAAP]					
Total					

To provide flexibility for company-specific disclosure, the amendments allow a registrant to disaggregate the specified categories by using other categories suitable to its business, but the table must include all of the obligations that fall within specified categories.[117] In addition, the table should be accompanied by footnotes necessary to describe material contractual provisions or other material information to the extent necessary for an understanding of the timing and amount of the contractual obligations in the table.

U.S. GAAP already requires registrants to aggregate and assess all of the specified categories, except for purchase obligations. Accordingly, the first three categories of contractual obligations are defined by reference to the relevant U.S. GAAP accounting pronouncements.[118] A registrant that prepares financial statements in accordance with a non-U.S. GAAP should include contractual obligations in the table that are consistent with the classifications used in the GAAP under which its primary financial statements are prepared.[119]

Some purchase obligations are executory contracts, and therefore are not recognized as liabilities in

[109] *See, e.g.,* Instruction 2 to paragraph 303(a)(4) of Regulation S–K [17 CFR 229.303].

[110] *See, e.g.,* Instruction 1 to paragraph 303(a)(4) of Regulation S–K [17 CFR 229.303].

[111] *See* Release No. 33–6835 (May 18, 1989) [54 FR 22427].

[112] *Id.* at 22436.

[113] *See, e.g.,* FASB SFAS No. 13, *Accounting for Leases* (Nov. 1976); SFAS No. 47, *Disclosure of Long-Term Obligations* (March 1981); and SFAS No. 129, *Disclosure of Information about Capital Structure* (Feb. 1997).

[114] *See, e.g.,* Item 303(a)(5)(i) of Regulation S–K [17 CFR 229.303(a)(5)(i)].

[115] ''Small business issuer'' is defined to mean any entity that (1) Has revenues of less than $25,000,000; (2) is a U.S. or Canadian issuer; (3) is not an investment company; and (4) if a majority-owned subsidiary, has a parent corporation that also is a small business issuer. An entity is not a small business issuer, however, if it has a public float (the aggregate market value of the outstanding equity securities held by non-affiliates) of $25,000,000 or more. *See* 17 CFR 228.10.

[116] Registrants are not required to include the table for interim periods. Instead, a registrant should update the table from its annual report by disclosing only material changes outside of the ordinary course of business. *See, e.g.,* Instruction 7 to paragraph 303(b) of Regulation S–K [17 CFR 229.303].

[117] *See, e.g.,* Item 303(a)(5)(i) of Regulation S–K [17 CFR 229.303(a)(5)(i)].

[118] *See, e.g.,* Item 303(a)(5)(ii) of Regulation S–K [17 CFR 229.303(a)(5)(ii)].

[119] *See, e.g.,* Instruction 2 to Item 5.F of Form 20–F [17 CFR 249.220f].

accordance with GAAP.[120] Because purchase obligations may have a significant effect on the registrant's liquidity, they are included in the table. The amendments provide a definition of ''purchase obligations.'' A ''purchase obligation'' is defined as an agreement to purchase goods or services that is enforceable and legally binding on the registrant and that specifies all significant terms, including: fixed or minimum quantities to be purchased; fixed, minimum or variable price provisions; and the approximate timing of the transaction.[121] If the purchase obligations are subject to variable price provisions, then the registrant must provide estimates of the payments due. In that case, the table should include footnotes to inform investors of the payments that are subject to market risk, if that information is material to investors. In addition, the footnotes should discuss any material termination or renewal provisions to the extent necessary for an understanding of the timing and amount of the registrant's payments under its purchase obligations.

E. Presentation of Disclosure

1. Separate Disclosure Sections

The amendments require a registrant to present the disclosure about off-balance sheet arrangements in a separately-captioned section of MD&A. In contrast, a registrant may place the tabular disclosure of known contractual obligations in an MD&A location that it deems to be appropriate. In response to the request for comments in the Proposing Release, five commenters suggested that the issuer should be able to determine the placement of the off-balance sheet disclosures within the MD&A,[122] and two commenters supported a separate disclosure section for off-balance sheet disclosures.[123] After evaluating the comments, we are adopting a requirement for a separate section for two reasons. First, a distinct presentation of the information will highlight it for readers and enable investors to more easily compare disclosure of different companies. Second, a distinct presentation will layer the MD&A, and thereby enable investors with varying levels of interest and financial acumen to easily obtain desired information.

2. Language and Format

The MD&A discussion should be presented in language and a format that is clear, concise and understandable. For example, a registrant may choose to include the financial impact of its off-balance sheet arrangements (*e.g.*, revenues, expenses, gains or losses) aggregated by type of arrangement in a tabular format. The information should not be presented in such a manner that only an accountant or financial analyst or an expert on a particular industry would be able to fully understand it. Boilerplate disclosures that do not specifically address the registrant's particular circumstances and operations will not satisfy the MD&A requirements. Disclosure that can easily be transferred from year to year, or from company to company, with no change will neither inform investors adequately nor reflect the independent thinking that must precede the assessment by management that is intended for MD&A disclosure.

3. Cross-Referencing to the Financial Statements

In response to the Proposing Release, eight commenters noted that some of the disclosures appear to be redundant with GAAP disclosure requirements.[124] To eliminate unnecessary repetition, the amendments allow a registrant to include within its MD&A section a cross-reference to information in the footnotes to the financial statements.[125] The cross-reference must clearly identify specific information in the footnotes and must integrate the substance of the footnotes into the MD&A discussion in a manner designed to inform readers of the significance of the information that is not included within the body of the MD&A. Registrants should ensure that the quality of the discussion of off-balance sheet arrangements has not diminished as a result of including a cross-reference. In addition, the disclosure in the referenced footnotes should comply with the language and format requirements discussed above.

F. Effect of Amendments on Commission Statement

In an effort to provide guidance to public companies, our January 2002 Commission Statement presented a number of factors that management should consider regarding the MD&A disclosure requirements for liquidity and capital resources, off-balance sheet arrangements, certain trading activities that include non-exchange traded contracts accounted for at fair value, and transactions with persons or entities that derive benefits from their non-independent relationships with the registrant or the registrant's related parties.[126] The amendments relating to disclosures that are the subject of this release will supersede the guidance in the Commission Statement on disclosure of off-balance sheet arrangements [127] as of the Compliance Date for the amendments. On the Compliance Date for the amendments relating to disclosure of the table of contractual obligations, the guidance in the Commission Statement on disclosure of the table of contractual obligations [128] also will be superseded by the amendments. All other guidance issued in the Commission Statement will remain in effect. While the Compliance Dates for the amendments applies to annual reports, registration statements and proxy or information statements that are required to include financial statements for the fiscal years ending on or after June 15, 2003 for disclosure about off-balance sheet arrangements and December 15, 2003 for the table of contractual obligations, we assume that registrants with fiscal years ending before the Compliance Dates will continue to follow the guidance in the Commission Statement. Registrants may voluntarily comply with the new disclosure requirements before the Compliance Dates.

G. Application to Foreign Private Issuers

The amendments apply to foreign private issuers that file annual reports on Form 20–F [129] or on Form 40–F.[130] Because section 401(a) of the Sarbanes-Oxley Act does not distinguish between foreign private issuers [131] and U.S. companies, we interpret Congress' directive to the Commission to adopt rules requiring expanded disclosure about off-balance sheet transactions in annual reports filed with the

[120] *See* FASB, Statement of Financial Accounting Concepts No. 6, *Elements of Financial Statements* (Dec. 1985), paragraphs 35–40.

[121] *See, e.g.,* Item 303(a)(5)(ii)(D) of Regulation S–K [17 CFR 229.303(a)(5)(ii)(D)].

[122] See, *e.g.*, the letters of ACB, CSC, D&T, IMC and Pfizer.

[123] See, *e.g.*, the letters of Beard and PwC.

[124] *See, e.g.*, the letters of ACB, Boeing, Eaton, E&Y, Ford, KPMG, NAREIT and NY City Bar.

[125] *See, e.g.*, Instruction 5 to paragraph 303(a)(4) of Regulation S–K [17 CFR 229.303(a)(4)].

[126] *See* Commission Statement, Release No. 33–8056, FR–61 (Jan. 22, 2002)[67 FR 3746].

[127] *See* Commission Statement, Section II.A.2.

[128] *See* Commission Statement, Section II.A.3.

[129] 17 CFR 249.220f.

[130] 17 CFR 249.240f. Form 40-F is the form used by qualified Canadian issuers to file their Exchange Act registration statements and annual reports with the Commission in accordance with Canadian disclosure requirements under the U.S.-Canadian Multijurisdictional Disclosure System (''MJDS'').

[131] A foreign private issuer is a non-U.S. company except for a company that has more than 50% of its outstanding voting securities owned by U.S. investors and has a majority of its officers and directors residing in or being citizens of the U.S., has a majority of its assets located in the U.S., or has its business principally administered in the U.S. *See* Exchange Act Rule 3b–4 [17 CFR 240.3b–4].

Commission to apply equally to Form 20–F or 40–F annual reports filed by foreign private issuers and to Form 10–K or 10–KSB annual reports filed by domestic issuers. In response to the Proposing Release, three commenters believed that the rules should apply to foreign private issuers, [132] five commenters believed that the rules should not apply to MJDS filers,[133] and four commenters believed that the Sarbanes-Oxley Act does not, and should not, require the proposals to be applied to foreign private issuers and MJDS filers.[134] We do not believe that it is appropriate to exempt foreign private issuers or MJDS filers because, as discussed below, the disclosure requirements do not represent a fundamental change in our approach with respect to the financial disclosure provided by foreign private issuers and MJDS filers.

There are two additional reasons for applying the amendments to foreign private issuers' annual reports filed with the Commission. First, investors and others would enjoy the same benefits from expanded off-balance sheet disclosure in foreign private issuers' annual reports as they would from this disclosure in domestic issuers' annual reports. Second, for Form 20-F annual reports, the existing MD&A-equivalent requirements for foreign private issuers currently mirror the substantive MD&A requirements for U.S. companies. We believe this desirable policy should continue.[135]

The disclosure provided by Canadian issuers that file Form 40–F is generally that required under Canadian law. We have, however, supplemented these disclosure requirements with specific required items of information.[136] We have adopted additional disclosure requirements under Form 40–F as a result of the Sarbanes-Oxley Act.[137]

Although an issuer prepares its MD&A discussion contained in a Form 40-F registration statement or annual report in accordance with Canadian disclosure standards, we believe that requiring disclosure of off-balance sheet arrangements and a table of contractual obligations in accordance with SEC rules is not inconsistent with the principles of the MJDS, is consistent with the Sarbanes-Oxley Act and, most importantly, will provide investors with useful information that is comparable to that provided by U.S. and other foreign companies that file reports under the Exchange Act.

Section 401(a) of the Sarbanes-Oxley Act also requires the Commission to adopt off-balance sheet disclosure rules that apply to ''each quarterly financial report required to be filed with the Commission.'' [138] Foreign private issuers are not required to file ''quarterly'' reports with the Commission, and therefore the amendments do not apply to Form 6-K reports submitted by foreign private issuers to provide copies of materials required to be made public in their home jurisdictions.[139] Thus, unless a foreign private issuer files a Securities Act registration statement that must include interim period financial statements and related MD&A disclosure, it will not be required to update its MD&A disclosure more frequently than annually.[140]

The MD&A disclosure that foreign private issuers currently provide in documents filed with the Commission must focus on the primary financial statements, whether those are prepared in accordance with U.S. GAAP or a non-U.S. GAAP.[141] Foreign private issuers whose primary financial statements are prepared in accordance with a non-U.S. GAAP should include in their MD&A a discussion of the reconciliation to U.S. GAAP, and any differences between foreign and U.S. GAAP, if it would be necessary for an understanding of the financial statements as a whole.[142] Consistent with that existing MD&A requirement for foreign private issuers, the disclosure about off-balance sheet arrangements and the table of contractual obligations must focus on the primary financial statements presented in the document, while taking the reconciliation into account.

The definition of ''off-balance sheet arrangements'' covers the same types of arrangements regardless of whether a registrant is a foreign private issuer or a domestic issuer. We believe that the references to U.S. GAAP in the definition best achieve the appropriate scope of arrangements that require more transparent disclosure, regardless of any particular accounting treatment. To identify the types of arrangements that are subject to disclosure under the amendments, a foreign private issuer must assess its guarantee contracts and variable interests pursuant to U.S. GAAP. Foreign private issuers must already make this assessment when they reconcile or prepare their financial statements in accordance with U.S. GAAP. A foreign private issuer's MD&A disclosure should continue to focus on its primary financial statements despite the fact that its various ''off-balance sheet arrangements'' have been defined by reference to U.S. GAAP.

H. Safe Harbor for Forward-Looking Information

Some of the disclosure required by the amendments would require disclosure of forward-looking information.[143] To encourage the type of

---

[132] *See, e.g.*, the letters of AICPA, D&T and Pfizer.

[133] *See, e.g.*, the letters of AICPA, D&T, Fried Frank, Pfizer and PwC.

[134] See, *e.g.*, the letters of ABA, OFII, NY City Bar and S&C.

[135] Although we revised the wording of the MD&A Item in Form 20–F in 1999, the adopting release noted that we interpret that Item as requiring the same disclosure as Item 303 of Regulation S–K. See Release No. 33–7745 (September 28, 1999) [64 FR 53900 at 59304]. In addition, Instruction 1 to Item 5 in Form 20–F provides that issuers should refer to the Commission's 1989 interpretive release on MD&A disclosure under Item 303 of Regulation S–K for guidance in preparing the discussion and analysis by management of the company's financial condition and results of operations required in Form 20–F. *See* Release No. 33–6835 (May 18, 1989) [54 FR 22427].

[136] For example, under General Instruction C.2 of Form 40-F, the issuer must usually include financial information that is reconciled to U.S. generally accepted accounting principles.

[137] We have recently adopted amendments in Form 40-F to require disclosure concerning whether the issuer has adopted a code of ethics applicable to certain officers and whether it has a financial expert on its audit committee. *See* Release No. 33–8177 (January 23, 2003) [Not yet published in **Federal Register**].

[138] Exchange Act section 13(j) [15 U.S.C. 78m(j)].

[139] A foreign private issuer must furnish under cover of Form 6–K material information that it makes public or is required to make public under its home country laws or the rules of its home country stock exchange or that it distributes to security holders. While foreign private issuers may submit interim financial information under cover of Form 6-K, they do so pursuant to their home country requirements and not because of a Commission requirement to submit updated financial information for specified periods and according to specified standards. Therefore, we do not believe that a Form 6–K constitutes a ''periodic'' or ''quarterly'' report analogous to a Form 10–Q or 10–QSB for which expanded disclosure is required. We similarly clarified that Form 6–K reports are not subject to the recently adopted section 302 certification requirements. *See* Release No. 33–8124 at n. 50.

[140] Similar to our treatment of Securities Act registration statements filed by domestic issuers, we are including within the scope of the amendments Securities Act registration statements filed by foreign private issuers on Forms F–1, F–2, F–3 and F–4 [17 CFR 239.31–239.34]. Each of these registration statements references Form 20–F's disclosure requirements. The amendments would not, however, apply to Securities Act registration statements filed by Canadian issuers under the MJDS because we believe them to be outside the scope of the directive in section 401(a) of the Sarbanes-Oxley Act. These MJDS registration statements are based on Canadian disclosure requirements.

[141] *See* Instruction 2 to Item 5 of Form 20-F [17 CFR 249.220f].

[142] *Id.*

[143] We are therefore eliminating a portion of the instructions in the MD&A rules that state that registrants are not required to provide forward-looking information. See, *e.g.*, Instruction 7 to Item 303(a) and 6 to Item 303(b) of Regulation S–K [17

information and analysis necessary for investors to understand the impact of off-balance sheet arrangements and to reduce the burden of estimating the payments due under contractual obligations, the amendments include a safe harbor for forward-looking information.[144] The safe harbor explicitly applies the statutory safe harbor protections (sections 27A of the Securities Act and 21E of the Exchange Act) [145] to forward-looking information that is required to be disclosed.

The statutory safe harbors contain provisions to protect forward-looking statements against private legal actions that are based on allegations of a material misstatement or omission.[146] The statutory safe harbors provide three separate bases for a registrant to claim the protection against liability for forward-looking statements made in the registrant's MD&A. First, a forward-looking statement will fall within the safe harbors if identified as forward-looking and accompanied by meaningful cautionary statements that identify important factors that could cause actual results to differ materially from those in the forward-looking statement. Second, the safe harbors protect from private liability any forward-looking statement that is not material. Finally, the safe harbors preclude private liability if a plaintiff fails to prove that the forward-looking statement was made by or with the approval of an executive officer of the registrant who had actual knowledge that it was false or misleading. The statutory safe harbors cover statements by reporting companies, persons acting on their behalf, outside reviewers retained by them, and their underwriters (when using information from, or derived from, the companies).

Because we believe that it would promote more meaningful disclosure, we are invoking rulemaking authority under sections 27A and 21E to create a new safe harbor to ensure the application of the statutory safe harbors to the forward-looking statements required under the amendments. The safe harbor is designed to remove possible ambiguity about whether the statutory safe harbors would apply to the forward-looking statements made in response to the amendments. The safe harbor specifies that, except for historical facts, the disclosure would be deemed to be a ''forward looking statement'' as that term is defined in the statutory safe harbors.[147] In addition, with respect to the MD&A discussion of off-balance sheet arrangements, we are adopting a provision that the ''meaningful cautionary statements'' element of the statutory safe harbors will be satisfied if a registrant satisfies all of its off-balance sheet arrangements disclosure requirements.[148] Because the new MD&A safe harbor is closely linked to the statutory safe harbors, we urge companies preparing their disclosure to consider the terms, conditions and scope of the statutory safe harbors in drafting their disclosure.

IV. Paperwork Reduction Act

A. Background

The amendments to Regulations S–B, S–K,[149] Form 20–F and Form 40–F contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[150] We published a notice requesting comment on the collection of information requirements in the Proposing Release, and we submitted these requirements to the Office of Management and Budget (''OMB'') for review in accordance with the PRA.[151] The titles for the collections of information are:

(1) ''Form S–1'' (OMB Control No. 3235–0065);

(2) ''Form F–1'' (OMB Control No. 3235–0258);

(3) ''Form SB–2'' (OMB Control No. 3235–0418);

(4) ''Form S–4'' (OMB Control No. 3235–0324);

(5) ''Form F–4'' (OMB Control No. 3235–0325);

(6) ''Form 10'' (OMB Control No. 3235–0064);

(7) ''Form 10–SB'' (OMB Control No. 3235–0419);

(8) ''Form 20–F'' (OMB Control No. 3235–0288);

(9) ''Form 40–F'' (OMB Control No. 3235–0381);

(10) ''Form 10–K'' (OMB Control No. 3235–0063);

(11) ''Form 10–KSB'' (OMB Control No. 3235–0420);

(12) ''Proxy Statements—Regulation 14A (Commission Rules 14a–1 through 14a–15) and Schedule 14A'' (OMB Control No. 3235–0059);

(13) ''Information Statements—Regulation 14C (Commission Rules 14c–1 through 14c–7 and Schedule 14C)'' (OMB Control No. 3235–0057);

(14) ''Form 10–Q'' (OMB Control No. 3235–0070);

(15) ''Form 10–QSB'' (OMB Control No. 3235–0416);

(16) ''Regulation S–K'' (OMB Control No. 3235–0071); and

(17) ''Regulation S–B'' (OMB Control No. 3235–0417).

These regulations and forms were adopted pursuant to the Securities Act and the Exchange Act and set forth the disclosure requirements for annual and quarterly reports, registration statements and proxy and information statements filed by companies to ensure that investors are informed. The hours and costs associated with preparing, filing, and sending these forms constitute reporting and cost burdens imposed by each collection of information. 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 control number.

The amendments require public companies to include a discussion of material off-balance sheet arrangements and a table of certain contractual obligations in the MD&A section of their filings with the Commission. We are adopting these rules pursuant to the legislative mandate in section 401(a) of the Sarbanes-Oxley Act of 2002.[152] Compliance with the revised disclosure requirements is mandatory. There is no mandatory retention period for the information disclosed, and responses to the disclosure requirements will not be kept confidential.

B. Paperwork Burden Estimates

For purposes of the Paperwork Reduction Act, we estimated the annual

CFR 229.303]. Deleting that portion of the instructions does not in any way reduce the availability of any existing safe harbor for forward-looking information.

[144] *See, e.g.*, Item 303(c) of Regulation S–K [17 CFR 229.303(c)].

[145] *See* 15 U.S.C. 77z–2 and 78u–5.

[146] While the statutory safe harbors by their terms do not apply to forward-looking statements included in financial statements prepared in accordance with U.S. GAAP, they do cover MD&A disclosures. The statutory safe harbors would not apply, however, if the MD&A forward-looking statement were made in connection with: an initial public offering, a tender offer, an offering by a partnership or a limited liability company, a roll-up transaction, a going private transaction, an offering by a blank check company or a penny stock issuer, or an offering by an issuer convicted of specified securities violations or subject to certain injunctive or cease and desist actions. *See* 15 U.S.C. 77z–2(b) and 78u–5(b).

[147] *See, e.g.*, Item 303(c)(2)(i) of Regulation S–K [17 CFR 229.303(c)(2)(i)].

[148] *See, e.g.*, Item 303(c)(2)(ii) of Regulation S–K [17 CFR 229.303(c)(2)(ii)]. Because this provision does not apply to the required table of contractual obligations, registrants should tailor the required cautionary language to the specific forward-looking statements being made.

[149] Although we are proposing amendments to Regulations S–B and S–K, the burden is imposed through the forms that refer to the disclosure regulations. To avoid a Paperwork Reduction Act inventory reflecting duplicative burdens, we estimate the burdens imposed by Regulations S–B and S–K to be one hour.

[150] 44 U.S.C. 3501 *et seq.*

[151] 44 U.S.C. 3507(d) and 5 CFR 1320.11.

[152] Pub. L. 107–204 Sec. 401(a) [15 U.S.C. 78m(j)].

incremental paperwork burden for all companies to prepare the disclosure required under the amendments to be approximately 366,337 hours of company personnel time and the incremental cost to be approximately $44,795,000 for the services of outside professionals.[153] That estimate includes the time and the cost of in-house preparation of the disclosure, reviews by executive officers, in-house counsel, outside counsel, independent auditors and members of the audit committee.[154] It does not include the full cost of establishing systems to collect and monitor the information because a registrant must already do so to prepare its financial statements, comply with current disclosure requirements and maintain adequate internal controls.

We derived the paperwork burden estimates by estimating the total amount of time it will take a company to prepare each item of the disclosure. We estimate that in the first year, the off-balance sheet disclosure will take 14.5 hours for annual reports and proxy statements (11 hours in-house personnel time and a cost of approximately $1100 for professional services), 16 hours for registration statements (4 hours in-house personnel time and a cost of approximately $3600 for professional services) and 10 hours for quarterly reports (7.5 hours in-house personnel time and a cost of approximately $750 for professional services). We estimate that in the first year, the disclosure of contractual obligations will take 7.5 hours for annual reports and proxy statements (5.5 hours in-house personnel time and a cost of approximately $600 for professional services), 8.5 hours for registration statements (2 hours in-house personnel time and a cost of approximately $1900 for professional services) and 3 hours for each quarterly report (2.25 hours in-house personnel time and a cost of approximately $225 for professional services). Our estimates for the preparation time for all of the disclosure items in the first year are 22 hours for annual reports and proxy statements (16.5 hours in-house personnel time and a cost of approximately $1650 for professional services), 24.5 hours for registration statements (6 hours in-house personnel time and a cost of approximately $5500 for professional services) and 13 hours for quarterly reports (9.75 hours in-house personnel time and a cost of approximately $975 for professional services). The paperwork burden estimate for preparing one annual report and three quarterly reports is 61 hours (46 hours in-house personnel time and a cost of approximately $4600 for professional services).

Because the paperwork burden estimates reflect a three-year period, we averaged the first year estimates with later year estimates to account for the fact that registrants would become accustomed to the disclosure requirements after the first year and therefore spend less time preparing the disclosure over the two subsequent years. The submission to OMB also reduced the burden to account for issuers that do not engage in off-balance sheet arrangements and for issuers that include identical MD&A sections in more than one filing covering the same period (*e.g.*, Form 10–K and Form S–1).

C. Responses to Request for Comments

We requested comment on the PRA analysis contained in the Proposing Release and received the following responses. Two commenters believed that the average estimate of 37 hours per registrant underestimated the compliance burden.[155] One commenter provided an estimated burden of approximately 150 to 190 hours to implement the rule.[156] Another commenter believed that compliance with the proposed requirement to include a tabular or textual disclosure of contractual obligations and contingent liabilities and commitments would require most companies to implement tracking and monitoring systems for contractual obligations and commitments (which would cost approximately $75,000 to $125,000 for software, with annual personnel costs of $90,000 to $125,000, plus an additional $25,000 for other costs).[157]

We believe that registrants already must collect the information required by the amendments in order to prepare their financial statements, meet their existing disclosure requirements and to maintain adequate internal controls. For example, U.S. GAAP currently requires registrants to disclose information about guarantees, contractual obligations under leases and long-term debt.[158] Current MD&A rules require disclosure of the registrant's material commitments for capital expenditures as of the end of the latest fiscal period.[159] We also believe that the treasury functions of most registrants track and monitor payments due under purchase obligations for internal control and budgeting purposes. Therefore, the paperwork burden in our estimate reflects the time it will take to draft and review the required disclosures, but not to initially collect the information.

Accordingly, we are not changing our initial estimates that have been submitted to OMB. In response to the commenters' concerns that the Proposing Release underestimated the paperwork burden, we are not reducing our estimates even though we have refined the definition of ''off-balance sheet arrangements,'' specified the particular contractual obligations to be included in the table and eliminated the table or text of contingent liabilities or commitments.

V. Cost-Benefit Analysis

A. Background

In accordance with the directive in section 401(a) of the Sarbanes-Oxley Act,[160] the Commission is adopting amendments to disclosure rules regarding a company's off-balance sheet arrangements. The amendments require disclosure to improve investors' understanding of a company's overall financial condition, changes in financial condition and results of operations. The amendments require companies that are reporting, raising capital in the registered public markets or asking shareholders for their votes to provide information about their off-balance sheet arrangements and an aggregate overview of their known contractual obligations in tabular format.

B. Objectives of Amendments

The amendments seek to improve transparency of disclosure regarding a company's off-balance sheet arrangements and to provide an overview of aggregate contractual obligations. We believe that improvement in the quality of information in these areas is necessary for investors to better understand a company's current and future financial position and current and future sources of liquidity. Moreover, because

[153] For convenience, the estimated PRA hour burdens have been rounded to the nearest whole number, and the estimated PRA cost burdens have been rounded to the nearest $1,000.

[154] In connection with other recent rulemakings, we have had discussions with several private law firms to estimate an hourly rate of $300 as the cost of outside professionals that assist companies in preparing these disclosures. For Securities Act registration statements, we also consider additional reviews of the disclosure by underwriters' counsel and underwriters.

[155] *See, e.g.,* the letters of CSC and Eaton.

[156] *See, e.g.,* the letter of FTNC.

[157] *See, e.g.,* the letter of Troutman.

[158] *See,* FASB SFAS No. 5, *Accounting for Contingencies* (Mar. 1975), paragraph 12 and FASB Interpretation No. 45, paragraph 13. *See also*, FASB SFAS No. 13, *Accounting for Leases* (Nov. 1976); SFAS No. 47, *Disclosure of Long-Term Obligations* (March 1981); and SFAS No. 129, *Disclosure of Information about Capital Structure* (Feb. 1997).

[159] *See* Item 303(a)(2)(i) of Regulation S–K [17 CFR 229.303(a)(2)(i)].

[160] Pub. L. 107–204 Sec. 401(a) [15 U.S.C. 78m(j)].

management is in the best position to monitor and assess those aspects of its business, it also is in the best position to provide clear explanations and analysis to investors. Our objectives are:

- To implement the legislative mandate in section 401(a) of the Sarbanes-Oxley Act;
- To provide investors with the information and analysis necessary to gain a more comprehensive understanding of the implications of a company's obligations and contingencies from off-balance sheet arrangements that are neither readily apparent, nor easily understood, from a reading of the financial statements alone; and
- To better inform investors of the short- and long-term impact of payments due under contractual obligations, from both on- and off-balance sheet activities, by presenting a complete picture in a single location. With a greater understanding of off-balance sheet arrangements and contractual obligations, investors should be better able to understand how a company conducts significant aspects of its business (including financing), to assess the quality of earnings and to understand the risks that are not apparent on the face of the financial statements.

C. Regulatory Approach

We are adopting principles-based disclosure requirements that are bolstered by four specific disclosure items to provide basic information about off-balance sheet arrangements. The principle governing our regulatory approach is that registrants should disclose information to the extent that it is necessary to an understanding of its off-balance sheet arrangements and their effect on financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources. To militate against obscure disclosure, the amendments include four disclosure items that are designed to result in a focused and descriptive discussion of the registrant's material off-balance sheet arrangements. This approach attempts to balance the need for registrants to have flexibility when drafting financial disclosure with investors' needs for more transparency. While the amendments could be considered less prescriptive than the proposed rules, we believe that we have preserved the benefits to investors of the disclosure requirements for off-balance sheet arrangements.

Certain disclosures required by this amendment are already required by generally accepted accounting principles.[161] The amendments are designed to work in concert with the disclosures required by generally accepted accounting principles to provide investors with a deeper, more comprehensive understanding of off-balance sheet arrangements employed by the registrant. Management is afforded the flexibility under the amendments to enhance the factual content contained in the financial statements with its perspective of how off-balance sheet arrangements are used in the context of the registrant's business.

D. Benefits of the Amendments

The primary anticipated benefit of the amendments is to increase transparency of a registrant's financial disclosure. Current market events have evidenced a need to provide investors with a clearer understanding of how a company's off-balance sheet arrangements materially affect the financial statements and company performance.[162] The amendments are intended to enhance the utility of the disclosure in the MD&A section by providing more information, including management's analysis, of off-balance sheet arrangements. In addition, the tabular disclosure of contractual obligations is designed to provide investors with an understanding of the liquidity and capital resource need and demands in short- and long-term time horizons.

By making information about off-balance sheet arrangements and contractual obligations available and more understandable, the amendments will benefit investors both directly and indirectly through the financial analysts and the credit rating agencies whose analyses investors consider.[163] In addition, the amendments should benefit investors because the enumerated disclosure will likely be more comparable across all firms and consistent over time. Greater transparency will thus enable investors to make more informed investment decisions and to allocate capital on a more efficient basis.

E. Costs of Amendments

We estimate that the amendments will impose a disclosure requirement on approximately 9,850 public companies.[164] We estimate that the disclosure will involve multiple parties, including in-house preparers, senior management, in-house counsel, outside counsel, outside auditors, and audit committee members. One commenter, commenting on the types of expenses, believed that companies would incur significant legal, accounting and internal costs (including collection and monitoring systems) in order to comply with the proposed disclosure.[165] For purposes of the Paperwork Reduction Act,[166] we estimated that company personnel would spend approximately 366,337 hours per year (37 hours per company) to prepare, review and file the proposed disclosure. Based on our estimated cost of in-house staff time, we estimated that the PRA hour-burden would translate into an approximate cost of $45,792,000 ($5,000 per company).[167] We also estimated that companies would spend approximately $44,795,000 ($5,000 per company) on outside professionals to comply with the disclosure.[168] In response to our request for comment, one commenter estimated the annual cost for a large multinational company to be about $2 million.[169] One commenter noted that, in view of the limited number of public companies that may have failed to provide disclosures, it had significant reservations about whether the additional cost of regulation is justified.[170]

We believe the amendments will not substantially increase the costs to collect the information necessary to prepare the disclosure. This information should largely be readily available from each company's books and records. Since management should be fully apprised of off-balance sheet arrangements and contractual

[161] *See* FASB Interpretation No. 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others* (Nov. 2002); FASB Interpretation No. 46, *Consolidation of Variable Interest Entities* (Jan. 2003); and FASB SFAS No. 129, *Disclosure of Information about Capital Structure* (Feb. 1997).

[162] *See, e.g.*, Paquita Y. Davis-Friday *et. al., The Value Relevance of Financial Statement Recognition vs. Disclosure: Evidence from SFAS No. 106,* 74 The Accounting Review 403 (Oct. 1999).

[163] *See, e.g.*, Kent L. Womack, *Do Brokerage Analysts' Recommendations have Investment Value?* 51 Journal of Finance 137 (1996). *See also,* R. Mear and M. Firth, *Risk Perceptions of Financial Analysts and the Use of Market and Accounting Data,* 18 Accounting and Business Research 335 (1988).

[164] We estimate that about 80% of the number of registrants who filed annual reports last year will provide the disclosure.

[165] *See, e.g.,* the letter of Pfizer.

[166] 44 U.S.C. 3501 *et seq.*

[167] We estimate the average hourly cost of in-house personnel to be $125. This cost estimate is based on data obtained from *The SIA Report on Management and Professional Earnings in the Securities Industry* (Oct. 2001).

[168] To derive our estimates for the Paperwork Reduction Act, we multiplied the number of filers for each form by the incremental hours per form. The portion of the product carried by the company is reflected in hours and the portion carried by outside professionals is reflected as a cost.

[169] *See, e.g.,* the letter of Pfizer.

[170] *See, e.g.,* the letter of KPMG.

obligations in the ordinary course of managing the company, maintaining adequate internal controls and preparing the financial statements, the amendments may not impose significant incremental costs for the collection and calculation of data.

In assessing the cost of the amendments, we have considered possible unintended consequences. One possible unintended consequence of the amendments is that a registrant's competitors may be able to infer proprietary information from the disclosure. For example, a registrant's competitors may infer that the registrant has adopted a particular strategy based on disclosure about its off-balance sheet arrangements. In addition, a registrant may be discouraged from developing innovative financing techniques if a competitor may be able to copy the technique at little cost. The amendments could impose additional costs to the extent that the disclosure would deter legitimate uses of off-balance sheet arrangements.

F. Foreign Private Issuers

The amendments apply to foreign private issuers the same MD&A disclosure requirements that apply to U.S. companies. Foreign private issuers, however, are not required to file quarterly reports with the Commission. Thus, unless a foreign private issuer files a registration statement that must include interim period financial statements and related MD&A disclosure, it generally will not be required to update the MD&A disclosure more frequently than annually. Therefore, the cost of compliance could be lower for foreign private issuers than for U.S. companies. It is possible, however, that foreign private issuers will incur greater expenses in connection with the required reconciliation to U.S. GAAP, but only if a discussion of the differences in accounting is necessary for an understanding of the financial statements as a whole.

G. Small Business Issuers

The amendments do not require that small businesses provide tabular disclosure about contractual obligations. This information is currently required to be disclosed in various locations in filings. While it would be useful to investors if this information were disclosed in a single location, we believe that excluding small business issuers from this requirement is consistent with the policies underlying the small business issuer disclosure system. Although a small business issuer is not required to provide the table of contractual obligations in its MD&A, we encourage small business issuers to identify for investors the relevant financial footnotes that contain information about certain contractual obligations.

VI. Effects on Efficiency, Competition and Capital Formation

Section 23(a)(2) of the Exchange Act[171] requires us, when adopting rules under the Exchange Act, to consider the anti-competitive effects. 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. We have considered the amendments in accordance with the standards in section 23(a)(2).

The amendments require disclosure of information that is essential to an understanding of the ways that a company conducts its business and the potential material risks that the company may face as a result. The amendments also enhance the transparency of financial information that is neither readily apparent, nor easily understood, from a reading of the financial statements alone. The amendments are intended to make information about off-balance sheet arrangements and their impact on a public company's financial condition, changes in financial condition and operating results more understandable to investors. The amendments also will provide an overview of a company's known contractual obligations, which will improve an investors' ability to assess the liquidity and capital resource needs of a company over short- and long-term time periods.

In the Proposing Release, we identified two possible areas where the rules could potentially place a burden on competition. First, the amendments could burden competition to the extent that the disclosure may deter legitimate uses of off-balance sheet arrangements. Second, there is a possibility that a company's competitors could be able to infer proprietary or sensitive information from the company's disclosure about its off-balance sheet arrangements. We requested comment regarding the degree to which the proposed disclosure requirements would create competitively harmful effects upon public companies and how to minimize those effects. Three commenters on the Proposing Release expressed concerns about the sensitivity and potential competitive harm that could result from the disclosure.[172] The likelihood that competitors could infer proprietary information must be weighed against investors' needs for transparency of financial arrangements and resultant risk exposures. The amendments attempt to mitigate competitive harm by requiring disclosure to the extent necessary for an understanding of a registrant's off-balance sheet arrangements and their financial effects. Seven commenters believed that the proposal to require tabular or textual disclosure of contingent liabilities would cause competitive harm to the extent that such disclosure could negatively influence the outcome of the contingency.[173] We are not adopting that proposal at this time.

Section 2(b) of the Securities Act[174] and section 3(f) of the Exchange Act[175] require us, when engaging in rulemaking that requires us 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. We believe the amendments will promote market efficiency by making information about off-balance sheet arrangements, and their impact on the presentation of the company's financial position, more understandable. In addition, information about payments under known contractual obligations will be aggregated and presented in a single location. As a result, we believe that investors may be able to make more informed investment decisions and capital may be allocated on a more efficient basis.

VII. Final Regulatory Flexibility Analysis

This Final Regulatory Flexibility Analysis (''FRFA'') has been prepared in accordance with the Regulatory Flexibility Act.[176] This FRFA relates to amendments to Item 303 of Regulation S–K,[177] Item 303 of Regulation S–B,[178] Item 5 of Form 20–F[179] and General Instruction B of Form 40–F.[180] The amendments require public companies to discuss off-balance sheet arrangements and to provide a table of aggregate contractual obligations as of

[171] 15 U.S.C. 78w(a)(2).

[172] *See, e.g.,* the letters of AFP, Boeing and Pfizer.

[173] *See, e.g.,* the letters of AICPA, Eaton, E&Y, D&T, Intel, Troutman and PwC.

[174] 15 U.S.C. 77b(b).

[175] 15 U.S.C. 78c(f).

[176] 5 U.S.C. 603.

[177] 17 CFR 229.303.

[178] 17 CFR 228.303.

[179] 17 CFR 249.220f.

[180] 17 CFR 249.240f.

the latest fiscal year end balance sheet date. The disclosure will be included in the MD&A section of a public company's annual reports, quarterly reports, registration statements and proxy and information statements.

A. Need for the Amendments

On July 30, 2002, the Sarbanes-Oxley Act of 2002 was enacted.[181] Section 401 of the Sarbanes-Oxley Act, entitled ''Disclosures in Periodic Reports,'' requires the Commission to adopt final rules by January 26, 2003 (180 days after the date of enactment) that require a company, in each annual and quarterly financial report that it files with the Commission, to disclose ''all material off-balance sheet transactions, arrangements, obligations (including contingent obligations), and other relationships of the issuer with unconsolidated entities or other persons, that may have a material current or future effect on financial condition, changes in financial condition, results of operations, liquidity, capital expenditures, capital resources, or significant components of revenues or expenses.''[182] The Commission is adopting the amendments to fulfill that legislative mandate. The amendments address the lack of transparency of off-balance sheet arrangements in a public company's financial disclosure. The amendments address this problem by requiring a discussion of off-balance sheet arrangements in a public company's MD&A. The potential consequences of not taking this action to require disclosure regarding the off-balance sheet arrangements are: (a) Less transparency in the presentation of companies' financial statements and, correspondingly, a lesser understanding of companies' financial condition, changes in financial condition and results of operations when making investment decisions; and (b) a potential decrease in investor confidence in the full and fair disclosure system that is the hallmark of the U.S. capital markets.

The amendments seek to improve transparency of a company's off-balance sheet arrangements and aggregate contractual obligations. We believe that improvements in the quality of information in these areas will promote investor understanding of a company's current and future financial position. Our objectives are:

- To implement the legislative mandate in section 401(a) of the Sarbanes-Oxley Act;
- To provide investors with the information and analysis necessary to gain a more comprehensive understanding of the implications of a company's obligations and contingencies from off-balance sheet arrangements that are neither readily apparent, nor easily understood, from a reading of the financial statements alone; and
- To better inform investors of the aggregate impact of short- and long-term contractual obligations, from both on- and off-balance sheet activities, by presenting a complete picture in a single location.

With a greater understanding of a company's off-balance sheet arrangements and contractual obligations, investors will be better able to understand how a company conducts significant aspects of its business and to assess the quality of a company's earnings and the risks that are not apparent on the face of the financial statements.

B. Significant Issues Raised by Public Comment

The Initial Regulatory Flexibility Analysis (''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. We received no comment letters responding to that request.

C. Small Entities Subject to the Amendments

The amendments would affect companies that are small entities. Securities Act Rule 157[183] and Exchange Act Rule 0–10(a)[184] define a company, 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 companies, other than investment companies, that may be considered small entities. The amendments would apply to any small entity that fulfills its disclosure obligations by complying with our standard disclosure requirements[185] or with our optional disclosure system available only to small businesses.[186]

We believe that off-balance sheet arrangements involving small entities are most likely to be operating leases, but we did not receive any comments substantiating that belief. In our Paperwork Reduction Act analysis, we estimated that the cost of in-house staff time would translate into an approximate cost of $4,000 per company.[187] This figure may be lower for a small entity if its average hourly cost for its personnel were lower than $125, but we did not receive any specific data regarding these estimates. We also estimated that companies would spend approximately $5,000 per company on outside professionals to comply with the disclosure.[188] This figure may be lower for a small entity if its average hourly cost of outside professionals were lower than $300, but we did not receive any substantiating data.

D. Projected Reporting, Recordkeeping and Other Compliance Requirements

The amendments will impose reporting and recordkeeping requirements on the class of small entities subject to our reporting requirements, either due to Securities Act registration or by the Exchange Act reporting requirements. The amendments will subject this class of small entities to reporting and recordkeeping requirements in connection with drafting, reviewing, filing, printing and disseminating disclosure in annual reports, registration statements, proxy or information statements and quarterly reports. The data underlying the disclosure about off-balance sheet transactions should be readily available from a company's books and records. Since management should be fully apprised of material off-balance sheet arrangements to fulfill its existing disclosure requirements and to maintain proper internal controls, the amendments may not impose significant incremental costs related to the collection and calculation of data. Small entities will either utilize existing personnel or hire an outside professional to provide the required disclosure.

[181] Pub. L. 107–204, 116 Stat. 745 (2002).

[182] Pub. L. 107–204 Sec. 401 [15 U.S.C. 78m(j)].

[183] 17 CFR 230.157.

[184] 17 CFR 270.0–10(a).

[185] Regulation S–K, 17 CFR 229.10–229.1016.

[186] Regulation S–B, 17 CFR 228.10–228.701.

[187] We estimate the average hourly cost of in-house personnel to be $125. This cost estimate is based on data obtained from *The SIA Report on Management and Professional Earnings in the Securities Industry* (Oct. 2001).

[188] To derive our estimates for the Paperwork Reduction Act, we multiplied the number of filers for each form by the incremental hours per form. The portion of the product carried by the company is reflected in hours and the portion carried by outside professionals is reflected as a cost.

E. Agency Action To Minimize Effect on Small Entities

Because section 401(a) of the Sarbanes-Oxley Act does not distinguish between small entities and other companies, we interpret Congress' directive to the Commission to adopt rules requiring expanded disclosure about off-balance sheet transactions to apply equally to small entities and to other public companies. However, we were able to further ease the regulatory burden on small entities by excluding small business issuers from the tabular disclosure requirement about contractual obligations. Tabular disclosure of contractual obligations was not mandated by the Sarbanes-Oxley Act. That information is currently required to be disclosed in various locations in filings. While it would be useful to investors if this information were disclosed in a single location, we believe that excluding small business issuers from this requirement would reduce their regulatory burden.

As required by the Regulatory Flexibility Act, we have considered alternatives that would accomplish our stated objectives, while minimizing any significant adverse impact on small entities. In connection with the amendments, 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 disclosure for small entities;

(c) The use of performance rather than design standards; and

(d) An exemption for small entities from all or part of the amendments.

We have drafted the amendments to require clear and straightforward disclosure of off-balance sheet arrangements in MD&A. Separate disclosure requirements regarding off-balance sheet arrangements for small entities will not yield the disclosure that we believe is necessary to achieve our objectives. In addition, the informational needs of investors in small entities are typically as great as the needs of investors in larger companies. Therefore, it does not seem appropriate to develop separate requirements with regard to off-balance sheet arrangements for small entities that clarify, consolidate or simplify the amendments. We have, however, excluded small business issuers from the requirement to provide tabular disclosure of contractual obligations.

We have used design rather than performance standards in connection with the amendments for three reasons. First, we believe the disclosure will be easier to implement and more useful to investors with enumerated informational requirements. The required disclosures may be likely to result in a more focused and comprehensive discussion of the company's off-balance sheet arrangements. Second, mandated disclosures regarding off-balance sheet arrangements may benefit investors in small entities because the enumerated disclosure under the amendments likely will be more comparable across all firms and consistent over time. Third, a mandated discussion of a company's off-balance sheet arrangements is uniquely suited to the MD&A disclosure in light of MD&A's emphasis on the identification of significant uncertainties and events and favorable or unfavorable trends. Therefore, adding a disclosure requirement to the existing MD&A appears to be the most effective method of eliciting the disclosure.

Because section 401(a) of the Sarbanes-Oxley Act does not distinguish between small entities and other companies, we do not believe it is appropriate to exempt small entities from the requirement to discuss off-balance sheet arrangements. We have, however, excluded small business issuers from the requirement to provide tabular disclosure of contractual obligations.

VIII. Statutory Authority and Text of Rule Amendments

The amendments contained in this release are being adopted under the authority set forth in sections 7, 10, 19, 27A and 28 of the Securities Act, sections 12, 13, 14, 21E, 23 and 36 of the Exchange Act and sections 3(a) and 401(a) of the Sarbanes-Oxley Act of 2002.

List of Subjects in 17 CFR Parts 228, 229 and 249

Reporting and recordkeeping requirements, Securities.

Text of Amendments

In accordance with the foregoing, Title 17, Chapter II, of the Code of Federal Regulations is amended as follows:

PART 228—INTEGRATED DISCLOSURE SYSTEM FOR SMALL BUSINESS ISSUERS

1. The authority citation for Part 228 is amended by adding the following citation 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 228.303 is also issued under secs. 3(a) and 401(a), Pub. L. No. 107–204, 116 Stat. 745.

* * * * *

2. Section 228.303 is amended by:

a. Removing the phrase ''paragraph (a)'' and adding, in its place, the phrase ''paragraphs (a) and (c)'' in the first sentence of the introductory text;

b. Removing the phrase ''paragraph (b)'' and adding, in its place, the phrase ''paragraphs (b) and (c)'' in the second sentence of the introductory text;

c. Adding paragraph (c);

d. Adding Instructions 1 through 5 to paragraph (c) of Item 303; and

e. Adding paragraph (d).

The additions read as follows:

§ 228.303 (Item 303) Management's discussion and analysis or plan of operation.

* * * * *

(c) *Off-balance sheet arrangements.* (1) In a separately-captioned section, discuss the small business issuer's off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on the small business issuer's financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that is material to investors. The disclosure shall include the items specified in paragraphs (c)(1)(i), (ii), (iii) and (iv) of this Item to the extent necessary to an understanding of such arrangements and effect and shall also include such other information that the small business issuer believes is necessary for such an understanding.

(i) The nature and business purpose to the small business issuer of such off-balance sheet arrangements;

(ii) The importance to the small business issuer of such off-balance sheet arrangements in respect of its liquidity, capital resources, market risk support, credit risk support or other benefits; (iii) The amounts of revenues, expenses and cash flows of the small business issuer arising from such arrangements; the nature and amounts of any interests retained, securities issued and other indebtedness incurred by the small business issuer in connection with such arrangements; and the nature and amounts of any other obligations or liabilities (including contingent obligations or liabilities) of the small business issuer arising from such arrangements that are or are reasonably

likely to become material and the triggering events or circumstances that could cause them to arise; and

(iv) Any known event, demand, commitment, trend or uncertainty that will result in or is reasonably likely to result in the termination, or material reduction in availability to the small business issuer, of its off-balance sheet arrangements that provide material benefits to it, and the course of action that the small business issuer has taken or proposes to take in response to any such circumstances.

(2) As used in paragraph (c) of this Item, the term *off-balance sheet arrangement* means any transaction, agreement or other contractual arrangement to which an entity unconsolidated with the small business issuer is a party, under which the small business issuer has:

(i) Any obligation under a guarantee contract that has any of the characteristics identified in paragraph 3 of FASB Interpretation No. 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others* (November 2002) (''FIN 45''), as may be modified or supplemented, and that is not excluded from the initial recognition and measurement provisions of FIN 45 pursuant to paragraphs 6 or 7 of that Interpretation;

(ii) A retained or contingent interest in assets transferred to an unconsolidated entity or similar arrangement that serves as credit, liquidity or market risk support to such entity for such assets;

(iii) Any obligation, including a contingent obligation, under a contract that would be accounted for as a derivative instrument, except that it is both indexed to the small business issuer's own stock and classified in stockholders' equity in the small business issuer's statement of financial position, and therefore excluded from the scope of FASB Statement of Financial Accounting Standards No. 133, *Accounting for Derivative Instruments and Hedging Activities* (June 1998), pursuant to paragraph 11(a) of that Statement, as may be modified or supplemented; or

(iv) Any obligation, including a contingent obligation, arising out of a variable interest (as referenced in FASB Interpretation No. 46, *Consolidation of Variable Interest Entities* (January 2003), as may be modified or supplemented) in an unconsolidated entity that is held by, and material to, the small business issuer, where such entity provides financing, liquidity, market risk or credit risk support to, or engages in leasing, hedging or research and development services with, the small business issuer.

Instructions to paragraph (c) of Item 303. 1. No obligation to make disclosure under paragraph (c) of this Item shall arise in respect of an off-balance sheet arrangement until a definitive agreement that is unconditionally binding or subject only to customary closing conditions exists or, if there is no such agreement, when settlement of the transaction occurs.

2. Small business issuers should aggregate off-balance sheet arrangements in groups or categories that provide material information in an efficient and understandable manner and should avoid repetition and disclosure of immaterial information. Effects that are common or similar with respect to a number of off-balance sheet arrangements must be analyzed in the aggregate to the extent the aggregation increases understanding. Distinctions in arrangements and their effects must be discussed to the extent the information is material, but the discussion should avoid repetition and disclosure of immaterial information.

3. For purposes of paragraph (c) of this Item only, contingent liabilities arising out of litigation, arbitration or regulatory actions are not considered to be off-balance sheet arrangements.

4. Generally, the disclosure required by paragraph (c) of this Item shall cover the most recent fiscal year. However, the discussion should address changes from the previous year where such discussion is necessary to an understanding of the disclosure.

5. In satisfying the requirements of paragraph (c) of this Item, the discussion of off-balance sheet arrangements need not repeat information provided in the footnotes to the financial statements, provided that such discussion clearly cross-references to specific information in the relevant footnotes and integrates the substance of the footnotes into such discussion in a manner designed to inform readers of the significance of the information that is not included within the body of such discussion.

(d) *Safe harbor.* (1) The safe harbor provided in section 27A of the Securities Act of 1933 (15 U.S.C. 77z–2) and section 21E of the Securities Exchange Act of 1934 (15 U.S.C. 78u–5) (''statutory safe harbors'') shall apply to forward-looking information provided pursuant to paragraph (c) of this Item, provided that the disclosure is made by: an issuer; a person acting on behalf of the issuer; an outside reviewer retained by the issuer making a statement on behalf of the issuer; or an underwriter, with respect to information provided by the issuer or information derived from information provided by the issuer.

(2) For purposes of paragraph (d) of this Item only:

(i) All information required by paragraph (c) of this Item is deemed to be a ''forward looking statement'' as that term is defined in the statutory safe harbors, except for historical facts.

(ii) With respect to paragraph (c) of this Item, the meaningful cautionary statements element of the statutory safe harbors will be satisfied if a small business issuer satisfies all requirements of that same paragraph (c) of this Item.

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

3. The authority citation for Part 229 is amended by adding the following citation 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* 78mm, 79e, 79j, 79n, 79t, 80a–8, 80a–9, 80a–20, 80a–29, 80a–30, 80a–31(c), 80a–37, 80a–38(a), 80a–39 and 80b–11, unless otherwise noted.

Section 229.303 is also issued under secs. 3(a) and 401(a), Pub. L. No. 107–204, 116 Stat. 745.

* * * * *

4. Section 229.303 is amended by:

a. Removing the authority citation following § 229.303;

b. Removing the phrase ''paragraphs (a)(1), (2) and (3) with respect to liquidity, capital resources and results of operations'' and adding, in its place, the phrase ''paragraphs (a)(1) through (5) of this Item'' in the second sentence of the introductory text of paragraph (a);

c. Removing the phrase ''or for those fiscal years beginning after December 25, 1979,'' in paragraph (a)(3)(iv);

d. Adding paragraphs (a)(4) and (a)(5) before the ''Instructions to Paragraph 303(a)'';

e. Removing the second sentence of Instruction 2 of ''Instructions to Paragraph 303(a)'';

f. Removing the first three sentences of Instruction 7 of ''Instructions to Paragraph 303(a)'';

g. Removing the first sentence of Instruction 6 of ''Instructions to Paragraph (b) of Item 303'';

h. Adding Instructions 1 through 5 to paragraph 303(a)(4) at the end of ''Instructions to Paragraph 303(a)'';

i. Adding Instruction 7 to ''Instructions to Paragraph (b) of Item 303''; and

j. Adding paragraph (c).

The additions read as follows:

§ 229.303 (Item 303) Management's discussion and analysis of financial condition and results of operations.

(a) * * *

(4) *Off-balance sheet arrangements.* (i) In a separately-captioned section, discuss the registrant's off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on the registrant's financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that is material to investors. The disclosure shall include the items specified in paragraphs (a)(4)(i)(A), (B), (C) and (D) of this Item to the extent necessary to an understanding of such arrangements and effect and shall also include such other information that the registrant believes is necessary for such an understanding.

(A) The nature and business purpose to the registrant of such off-balance sheet arrangements;

(B) The importance to the registrant of such off-balance sheet arrangements in respect of its liquidity, capital resources, market risk support, credit risk support or other benefits;

(C) The amounts of revenues, expenses and cash flows of the registrant arising from such arrangements; the nature and amounts of any interests retained, securities issued and other indebtedness incurred by the registrant in connection with such arrangements; and the nature and amounts of any other obligations or liabilities (including contingent obligations or liabilities) of the registrant arising from such arrangements that are or are reasonably likely to become material and the triggering events or circumstances that could cause them to arise; and

(D) Any known event, demand, commitment, trend or uncertainty that will result in or is reasonably likely to result in the termination, or material reduction in availability to the registrant, of its off-balance sheet arrangements that provide material benefits to it, and the course of action that the registrant has taken or proposes to take in response to any such circumstances.

(ii) As used in this paragraph (a)(4), the term *off-balance sheet arrangement* means any transaction, agreement or other contractual arrangement to which an entity unconsolidated with the registrant is a party, under which the registrant has:

(A) Any obligation under a guarantee contract that has any of the characteristics identified in paragraph 3 of FASB Interpretation No. 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others* (November 2002) (''FIN 45''), as may be modified or supplemented, and that is not excluded from the initial recognition and measurement provisions of FIN 45 pursuant to paragraphs 6 or 7 of that Interpretation;

(B) A retained or contingent interest in assets transferred to an unconsolidated entity or similar arrangement that serves as credit, liquidity or market risk support to such entity for such assets;

(C) Any obligation, including a contingent obligation, under a contract that would be accounted for as a derivative instrument, except that it is both indexed to the registrant's own stock and classified in stockholders' equity in the registrant's statement of financial position, and therefore excluded from the scope of FASB Statement of Financial Accounting Standards No. 133, *Accounting for Derivative Instruments and Hedging Activities* (June 1998), pursuant to paragraph 11(a) of that Statement, as may be modified or supplemented; or

(D) Any obligation, including a contingent obligation, arising out of a variable interest (as referenced in FASB Interpretation No. 46, *Consolidation of Variable Interest Entities* (January 2003), as may be modified or supplemented) in an unconsolidated entity that is held by, and material to, the registrant, where such entity provides financing, liquidity, market risk or credit risk support to, or engages in leasing, hedging or research and development services with, the registrant.

(5) *Tabular disclosure of contractual obligations.* (i) In a tabular format, provide the information specified in this paragraph (a)(5) as of the latest fiscal year end balance sheet date with respect to the registrant's known contractual obligations specified in the table that follows this paragraph (a)(5)(i). The registrant shall provide amounts, aggregated by type of contractual obligation. The registrant may disaggregate the specified categories of contractual obligations using other categories suitable to its business, but the presentation must include all of the obligations of the registrant that fall within the specified categories. A presentation covering at least the periods specified shall be included. The tabular presentation may be accompanied by footnotes to describe provisions that create, increase or accelerate obligations, or other pertinent data to the extent necessary for an understanding of the timing and amount of the registrant's specified contractual obligations.

Contractual obligations	Payments due by period			3–5 years	More than 5 years
	Total	Less than 1 year	1–3 years		
[Long-Term Debt Obligations]					
[Capital Lease Obligations]					
[Operating Lease Obligations]					
[Purchase Obligations]					
[Other Long-Term Liabilities Reflected on the Registrant's Balance Sheet under GAAP]					
Total					

(ii) *Definitions:* The following definitions apply to this paragraph (a)(5):

(A) *Long-Term Debt Obligation* means a payment obligation under long-term borrowings referenced in FASB Statement of Financial Accounting Standards No. 47 *Disclosure of Long-Term Obligations* (March 1981), as may be modified or supplemented.

(B) *Capital Lease Obligation* means a payment obligation under a lease classified as a capital lease pursuant to FASB Statement of Financial Accounting Standards No. 13

Accounting for Leases (November 1976), as may be modified or supplemented.

(C) *Operating Lease Obligation* means a payment obligation under a lease classified as an operating lease and disclosed pursuant to FASB Statement of Financial Accounting Standards No. 13 *Accounting for Leases* (November 1976), as may be modified or supplemented.

(D) *Purchase Obligation* means an agreement to purchase goods or services that is enforceable and legally binding on the registrant that specifies all significant terms, including: fixed or minimum quantities to be purchased; fixed, minimum or variable price provisions; and the approximate timing of the transaction.

Instructions to Paragraph 303(a):

* * * * *

Instructions to Paragraph 303(a)(4):

1. No obligation to make disclosure under paragraph (a)(4) of this Item shall arise in respect of an off-balance sheet arrangement until a definitive agreement that is unconditionally binding or subject only to customary closing conditions exists or, if there is no such agreement, when settlement of the transaction occurs.

2. Registrants should aggregate off-balance sheet arrangements in groups or categories that provide material information in an efficient and understandable manner and should avoid repetition and disclosure of immaterial information. Effects that are common or similar with respect to a number of off-balance sheet arrangements must be analyzed in the aggregate to the extent the aggregation increases understanding. Distinctions in arrangements and their effects must be discussed to the extent the information is material, but the discussion should avoid repetition and disclosure of immaterial information.

3. For purposes of paragraph (a)(4) of this Item only, contingent liabilities arising out of litigation, arbitration or regulatory actions are not considered to be off-balance sheet arrangements.

4. Generally, the disclosure required by paragraph (a)(4) shall cover the most recent fiscal year. However, the discussion should address changes from the previous year where such discussion is necessary to an understanding of the disclosure.

5. In satisfying the requirements of paragraph (a)(4) of this Item, the discussion of off-balance sheet arrangements need not repeat information provided in the footnotes to the financial statements, provided that such discussion clearly cross-references to specific information in the relevant footnotes and integrates the substance of the footnotes into such discussion in a manner designed to inform readers of the significance of the information that is not included within the body of such discussion.

(b) * * *

Instructions to Paragraph (b) of Item 303:

* * * * *

7. The registrant is not required to include the table required by paragraph (a)(5) of this Item for interim periods. Instead, the registrant should disclose material changes outside the ordinary course of the registrant's business in the specified contractual obligations during the interim period.

(c) *Safe harbor.* (1) The safe harbor provided in section 27A of the Securities Act of 1933 (15 U.S.C. 77z–2) and section 21E of the Securities Exchange Act of 1934 (15 U.S.C. 78u–5) (''statutory safe harbors'') shall apply to forward-looking information provided pursuant to paragraphs (a)(4) and (5) of this Item, provided that the disclosure is made by: an issuer; a person acting on behalf of the issuer; an outside reviewer retained by the issuer making a statement on behalf of the issuer; or an underwriter, with respect to information provided by the issuer or information derived from information provided by the issuer.

(2) For purposes of paragraph (c) of this Item only:

(i) All information required by paragraphs (a)(4) and (5) of this Item is deemed to be a *forward looking statement* as that term is defined in the statutory safe harbors, except for historical facts.

(ii) With respect to paragraph (a)(4) of this Item, the meaningful cautionary statements element of the statutory safe harbors will be satisfied if a registrant satisfies all requirements of that same paragraph (a)(4) of this Item.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

5. The authority citation for Part 249 is amended by revising the sectional authority for 249.220f and 249.240f 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(a), 401(b), 406 and 407, Pub. L. No. 107–204, 116 Stat. 745.

Section 249.240f is also issued under secs. 3(a), 302, 306(a), 401(a), 406 and 407, Pub. L. No. 107–204, 116 Stat. 745.

* * * * *

6. Form 20–F (referenced in § 249.220f), Item 5 is amended by:

a. Adding Items 5.E through 5.G;

b. Adding Instructions to 5.E; and

c. Adding Instructions to Item 5.F to read as follows:

Note: Form 20–F does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 20–F

* * * * *

Item 5. Operating and Financial Review and Prospects

* * * * *

E. Off-Balance Sheet Arrangements

1. In a separately-captioned section, discuss the company's off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on the company's financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that is material to investors. The disclosure shall include the items specified in Items 5.E.1(a), (b), (c) and (d) of this Item to the extent necessary to an understanding of such arrangements and effect, and shall also include such other information that the company believes is necessary for such an understanding.

(a) The nature and business purpose to the company of such off-balance sheet arrangements;

(b) The importance to the company of such off-balance sheet arrangements in respect of its liquidity, capital resources, market risk support, credit risk support or other benefits;

(c) The amounts of revenues, expenses and cash flows of the company arising from such arrangements; the nature and amounts of any interests retained, securities issued and other indebtedness incurred by the company in connection with such arrangements; and the nature and amounts of any other obligations or liabilities (including contingent obligations or liabilities) of the company arising from such arrangements that are or are reasonably likely to become material and the triggering events or circumstances that could cause them to arise; and

(d) Any known event, demand, commitment, trend or uncertainty that will result in or is reasonably likely to result in the termination, or material reduction in availability to the company, of its off-balance sheet arrangements that provide material benefits to it, and the course of action that the company has taken or proposes to take in response to any such circumstances.

2. As used in this Item 5.E., the term *off-balance sheet arrangement* means any transaction, agreement or other contractual arrangement to which an entity unconsolidated with the company is a party, under which the company has:

(a) Any obligation under a guarantee contract that has any of the characteristics identified in paragraph 3 of FASB Interpretation No. 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others* (November 2002) (''FIN 45''), as may be modified or supplemented, excluding the types of guarantee contracts described in paragraphs 6 and 7 of FIN 45;

(b) A retained or contingent interest in assets transferred to an unconsolidated entity or similar arrangement that serves as credit, liquidity or market risk support to such entity for such assets;

(c) Any obligation under a derivative instrument that is both indexed to the company's own stock and classified in stockholders' equity, or not reflected, in the company's statement of financial position; or

(d) Any obligation, including a contingent obligation, arising out of a variable interest (as referenced in FASB Interpretation No. 46, *Consolidation of Variable Interest Entities* (January 2003), as may be modified or supplemented) in an unconsolidated entity that is held by, and material to, the company, where such entity provides financing, liquidity, market risk or credit risk support to, or engages in leasing, hedging or research and development services with, the company.

F. Tabular Disclosure of Contractual Obligations

1. In a tabular format, provide the information specified in this Item 5.F.1 as of the latest fiscal year end balance sheet date with respect to the company's known contractual obligations specified in the table that follows this Item 5.F.1. The company shall provide amounts, aggregated by type of contractual obligation. The company may disaggregate the specified categories of contractual obligations using other categories suitable to its business, but the presentation must include all of the obligations of the company that fall within the specified categories. A presentation covering at least the periods specified shall be included. The tabular presentation may be accompanied by footnotes to describe provisions that create, increase or accelerate obligations, or other pertinent data to the extent necessary for an understanding of the timing and amount of the company's specified contractual obligations.

Contractual obligations	Payments due by period				
	Total	Less than 1 year	1–3 years	3–5 years	More than 5 years
[Long-Term Debt Obligations]					
[Capital (Finance) Lease Obligations]					
[Operating Lease Obligations]					
[Purchase Obligations]					
[Other Long-Term Liabilities Reflected on the Company's Balance Sheet under the GAAP of the primary financial statements]					
Total					

2. As used in this Item 5.F.1, the term *purchase obligation* means an agreement to purchase goods or services that is enforceable and legally binding on the company that specifies all significant terms, including: fixed or minimum quantities to be purchased; fixed, minimum or variable price provisions; and the approximate timing of the transaction.

G. Safe Harbor

1. The safe harbor provided in section 27A of the Securities Act and section 21E of the Exchange Act (''statutory safe harbors'') shall apply to forward-looking information provided pursuant to Item 5.E and F, provided that the disclosure is made by: an issuer; a person acting on behalf of the issuer; an outside reviewer retained by the issuer making a statement on behalf of the issuer; or an underwriter, with respect to information provided by the issuer or information derived from information provided by the issuer.

2. For purposes of Item 5.G.1 of this Item only, all information required by Item 5.E.1 and 5.E.2 of this Item is deemed to be a ''forward looking statement'' as that term is defined in the statutory safe harbors, except for historical facts.

3. With respect to Item 5.E, the meaningful cautionary statements element of the statutory safe harbors will be satisfied if a company satisfies all requirements of that same Item 5.E.

* * * * *

Instructions to Item 5.E:

1. No obligation to make disclosure under Item 5.E shall arise in respect of an off-balance sheet arrangement until a definitive agreement that is unconditionally binding or subject only to customary closing conditions exists or, if there is no such agreement, when settlement of the transaction occurs.

2. Companies should aggregate off-balance sheet arrangements in groups or categories that provide material information in an efficient and understandable manner and should avoid repetition and disclosure of immaterial information. Effects that are common or similar with respect to a number of off-balance sheet arrangements must be analyzed in the aggregate to the extent the aggregation increases understanding. Distinctions in arrangements and their effects must be discussed to the extent the information is material, but the discussion should avoid repetition and disclosure of immaterial information.

3. For purposes of paragraph Item 5.E only, contingent liabilities arising out of litigation, arbitration or regulatory actions are not considered to be off-balance sheet arrangements.

4. Generally, the disclosure required by Item 5.E shall cover the most recent fiscal year. However, the discussion should address changes from the previous year where such discussion is necessary to an understanding of the disclosure.

5. In satisfying the requirements of Item 5.E, the discussion of off-balance sheet arrangements need not repeat information provided in the footnotes to the financial statements, provided that such discussion clearly cross-references to specific information in the relevant footnotes and integrates the substance of the footnotes into such discussion in a manner designed to inform readers of the significance of the information that is not included within the body of such discussion.

Instructions to Item 5.F:

1. The company is not required to include the table required by Item 5.F.1 for interim periods. Instead, the company should disclose material changes outside the ordinary course of the company's business in the specified contractual obligations during the interim period.

2. Except for ''purchase obligations,'' the contractual obligations in the table required by Item 5.F.1 should be based on the classifications used in the generally accepted accounting principles under which the company prepares its primary financial statements. If the generally accepted accounting principles under which the company prepares its primary financial statements do not distinguish between capital (finance) leases and operating leases, then present all leases under one category.

* * * * *

7. Form 40–F (referenced in § 249.240f) is amended by adding paragraphs (11) through (13) and *Instructions* 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

* * * * *

(11) *Off-balance sheet arrangements.* (i) In a separately-captioned section, discuss the registrant's off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on the registrant's financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that is material to investors. The disclosure shall include the items specified in this General Instruction B.(11)(i)(A), (B), (C) and (D) to the extent necessary to an understanding of such arrangements and effect and shall also include such other information that the registrant believes is necessary for such an understanding.

(A) The nature and business purpose to the registrant of such off-balance sheet arrangements;

(B) The importance to the registrant of such off-balance sheet arrangements in respect of its liquidity, capital resources, market risk support, credit risk support or other benefits; and

(C) The amounts of revenues, expenses and cash flows of the registrant arising from such arrangements; the nature and amounts of any interests retained, securities issued and other indebtedness incurred by the registrant in connection with such arrangements; and the nature and amounts of any other obligations or liabilities (including contingent obligations or liabilities) of the registrant arising from such arrangements that are or are reasonably likely to become material and the triggering events or circumstances that could cause them to arise.

(D) Any known event, demand, commitment, trend or uncertainty that will result in or is reasonably likely to result in the termination, or material reduction in availability to the registrant, of its off-balance sheet arrangements that provide material benefits to it, and the course of action that the registrant has taken or proposes to take in response to any such circumstances.

(ii) As used in this General Instruction B.(11), the term *off-balance sheet arrangement* means any transaction, agreement or other contractual arrangement to which an entity unconsolidated with the registrant is a party, under which the registrant has:

(A) Any obligation under a guarantee contract that has any of the characteristics identified in paragraph 3 of FASB Interpretation No. 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others* (November 2002) (''FIN 45''), as may be modified or supplemented, excluding the types of guarantee contracts described in paragraphs 6 and 7 of FIN 45;

(B) A retained or contingent interest in assets transferred to an unconsolidated entity or similar arrangement that serves as credit, liquidity or market risk support to such entity for such assets;

(C) Any obligation under a derivative instrument that is both indexed to the registrant's own stock and classified in stockholders' equity, or not reflected, in the company's statement of financial position; or

(D) Any obligation, including a contingent obligation, arising out of a variable interest (as referenced in FASB Interpretation No. 46, *Consolidation of Variable Interest Entities* (January 2003), as may be modified or supplemented) in an unconsolidated entity that is held by, and material to, the registrant, where such entity provides financing, liquidity, market risk or credit risk support to, or engages in leasing, hedging or research and development services with, the registrant.

(12) *Tabular disclosure of contractual obligations.* (i) In a tabular format, provide the information specified in this General Instruction B.(12) as of the latest fiscal year end balance sheet date with respect to the registrant's known contractual obligations specified in the table that follows this General Instruction B.(12). The registrant shall provide amounts, aggregated by type of contractual obligation. The registrant may disaggregate the specified categories of contractual obligations using other categories suitable to its business, but the presentation must include all of the obligations of the registrant that fall within the specified categories. A presentation covering at least the periods specified shall be included. The tabular presentation may be accompanied by footnotes to describe provisions that create, increase or accelerate obligations, or other pertinent data to the extent necessary for an understanding of the timing and amount of the registrant's specified contractual obligations.

Contractual obligations	Payments due by period				
	Total	Less than 1 year	1–3 years	3–5 years	More than 5 years
[Long-Term Debt Obligations]					
[Capital (Finance) Lease Obligations]					
[Operating Lease Obligations]					
[Purchase Obligations]					
[Other Long-Term Liabilities Reflected on the Registrant's Balance Sheet under the GAAP of the primary financial statements]					

Contractual obligations	Payments due by period				
	Total	Less than 1 year	1–3 years	3–5 years	More than 5 years
Total	.....	.....	.....	.....	.....

(ii) As used in this General Instruction B.(12), the term *purchase obligation* means an agreement to purchase goods or services that is enforceable and legally binding on the registrant that specifies all significant terms, including: fixed or minimum quantities to be purchased; fixed, minimum or variable price provisions; and the approximate timing of the transaction.

(13) *Safe harbor.* (i) The safe harbor provided in section 27A of the Securities Act and section 21E of the Exchange Act (''statutory safe harbors'') shall apply to forward-looking information provided pursuant to General Instruction B.(11) and (12) of this Form 40–F, provided that the disclosure is made by: an issuer; a person acting on behalf of the issuer; an outside reviewer retained by the issuer making a statement on behalf of the issuer; or an underwriter, with respect to information provided by the issuer or information derived from information provided by the issuer.

(ii) For purposes of paragraph (i) of this General Instruction B.(13) only, all information required by General Instruction B.(11) and (12) of this Form 40–F is deemed to be a ''forward looking statement'' as that term is defined in the statutory safe harbors, except for historical facts.

(iii) With respect to General Instruction B.(11), the meaningful cautionary statements element of the statutory safe harbors will be satisfied if a registrant satisfies all requirements of that same General Instruction B.(11).

Instructions:

1. No obligation to make disclosure under General Instruction B.(11) shall arise in respect of an off-balance sheet arrangement until a definitive agreement that is unconditionally binding or subject only to customary closing conditions exists or, if there is no such agreement, when settlement of the transaction occurs.

2. Registrants should aggregate off-balance sheet arrangements in groups or categories that provide material information in an efficient and understandable manner and should avoid repetition and disclosure of immaterial information. Effects that are common or similar with respect to a number of off-balance sheet arrangements must be analyzed in the aggregate to the extent the aggregation increases understanding. Distinctions in arrangements and their effects must be discussed to the extent the information is material, but the discussion should avoid repetition and disclosure of immaterial information.

3. For purposes of paragraph General Instruction B.(11) only, contingent liabilities arising out of litigation, arbitration or regulatory actions are not considered to be off-balance sheet arrangements.

4. Generally, the disclosure required by General Instruction B.(11) shall cover the most recent fiscal year. However, the discussion should address changes from the previous year where such discussion is necessary to an understanding of the disclosure.

5. In satisfying the requirements of General Instruction B.(11), the discussion of off-balance sheet arrangements need not repeat information provided in the footnotes to the financial statements, provided that such discussion clearly cross-references to specific information in the relevant footnotes and integrates the substance of the footnotes into such discussion in a manner designed to inform readers of the significance of the information that is not included within the body of such discussion.

6. The registrant is not required to include the table required by General Instruction B.(12) for interim periods. Instead, the registrant should disclose material changes outside the ordinary course of the registrant's business in the specified contractual obligations during the interim period.

7. Except for ''purchase obligations,'' the contractual obligations in the table required by General Instruction B.(12) should be based on the classifications used in the generally accepted accounting principles under which the registrant prepares its primary financial statements. If the generally accepted accounting principles under which the registrant prepares its primary financial statements do not distinguish between capital (finance) leases and operating leases, then present all leases under one category.

* * * * *

By the Commission.

Dated: January 28, 2003.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03–2365 Filed 2–4–03; 8:45 am]

BILLING CODE 8010–01–P

Federal Register

Wednesday,
February 5, 2003

Part III

Securities and Exchange Commission

17 CFR Parts 210, 240, et al.
Strengthening the Commission's Requirements Regarding Auditor Independence; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 240, 249 and 274

[Release No. 33–8183; 34–47265; 35–27642; IC–25915; IA–2103, FR–68, File No. S7–49–02]

RIN 3235–AI73

Strengthening the Commission's Requirements Regarding Auditor Independence

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (''SEC'' or ''Commission'') is adopting amendments to its existing requirements regarding auditor independence to enhance the independence of accountants that audit and review financial statements and prepare attestation reports filed with the Commission. The final rules recognize the critical role played by audit committees in the financial reporting process and the unique position of audit committees in assuring auditor independence. Consistent with the direction of Section 208(a) of the Sarbanes-Oxley Act of 2002, we are adopting rules to: revise the Commission's regulations related to the non-audit services that, if provided to an audit client, would impair an accounting firm's independence; require that an issuer's audit committee pre-approve all audit and non-audit services provided to the issuer by the auditor of an issuer's financial statements; prohibit certain partners on the audit engagement team from providing audit services to the issuer for more than five or seven consecutive years, depending on the partner's involvement in the audit, except that certain small accounting firms may be exempted from this requirement; prohibit an accounting firm from auditing an issuer's financial statements if certain members of management of that issuer had been members of the accounting firm's audit engagement team within the one-year period preceding the commencement of audit procedures; require that the auditor of an issuer's financial statements report certain matters to the issuer's audit committee, including ''critical'' accounting policies used by the issuer; and require disclosures to investors of information related to audit and non-audit services provided by, and fees paid to, the auditor of the issuer's financial statements. In addition, under the final rules, an accountant would not be independent from an audit client if an audit partner received compensation based on selling engagements to that client for services other than audit, review and attest services.

As described further in the release, these rules also will have an impact on foreign accounting firms that conduct audits of foreign subsidiaries and affiliates of U.S. issuers, as well as of foreign private issuers. Many of the modifications to the proposed rules, such as those limiting the scope of partner rotation and personnel subject to the ''cooling off period,'' have the added benefit of addressing particular concerns raised about the international implications of these requirements. Moreover, additional time is being afforded to foreign accounting firms with respect to compliance with rotation requirements. The release also provides guidance on the provision of non-audit services by foreign accounting firms, including the treatment of legal services and tax services.

DATES: *Effective Date:* May 6, 2003. *Transition Dates:* Provided the following relationships did not impair the accountant's independence under pre-existing requirements of the Commission, the Independence Standards Board, or the accounting profession in the United States, an accountant's independence will not be deemed to be impaired:

(1) By employment relationships described in § 210.2–01(c)(2)(iii)(B) that commenced at the issuer prior to May 6, 2003;

(2) By compensation earned or received, as described in § 210.2–01(c)(8), during the accounting firm's fiscal year that includes May 6, 2003;

(3) Until May 6, 2004 by the provision of services described in § 210.2–01(c)(4) provided those services are pursuant to contracts in existence on May 6, 2003;

(4) Until May 6, 2003 by the provision of services that have not been pre-approved by an audit committee as required in § 210.2–01(c)(7);

(5) An accountant's independence will not be deemed to be impaired until the first day of the issuer's fiscal year beginning after May 6, 2003 by a ''lead'' partner and other audit partner (other than the ''concurring'' partner) providing services in excess of those permitted under § 210.2–01(c)(6); and

(6) An accountant's independence will not be deemed to be impaired until the first day of the issuer's fiscal year beginning after May 6, 2004 by a ''concurring'' partner providing services in excess of those permitted under § 210.2–01(c)(6).

For the purposes of calculating periods of service under § 210.2–01(c)(6):

(1) For the ''lead'' and ''concurring'' partner, the period of service includes time previously served as the ''lead'' or ''concurring'' partner prior to May 6, 2003; and

(2) For audit partners other than the ''lead'' partner or ''concurring'' partner, and for audit partners in foreign firms, the period of service does not include time served on the audit engagement team prior to the first day of issuer's fiscal year beginning on or after May 6, 2003.

FOR FURTHER INFORMATION CONTACT: Samuel L. Burke, Associate Chief Accountant, Paul Munter, Academic Fellow, or Robert E. Burns, Chief Counsel, at (202) 942–4400, Office of the Chief Accountant, or, with respect to questions about investment companies, Brian D. Bullard, Chief Accountant, at (202) 942–0590, Division of Investment Management, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: We are adding Rule 2–07 to Regulation S–X,[1] amending Rule 2–01 of Regulation S–X,[2] amending Item 9 of Regulation S–K,[3] amending Forms 10–K, 10–KSB, 20–F and 40–F,[4] amending Form N–CSR[5] and adding new Exchange Act Rule 10A–2.[6]

I. Introduction and Background

On July 30, 2002, the Sarbanes-Oxley Act of 2002 (''Sarbanes-Oxley Act'' or ''the Act'') was enacted.[7] Title II of the Sarbanes-Oxley Act, entitled ''Auditor Independence,'' requires the Commission to adopt, by January 26, 2003, final rules under which certain non-audit services will be prohibited, conflict of interest standards will be strengthened, auditor partner rotation and second partner review requirements will be strengthened, and the relationship between the independent auditor and the audit committee will be clarified and enhanced.

We are adopting amendments to our current rules regarding auditor independence.[8] The final rules advance our important policy goal of protecting the millions of people who invest in our securities markets in reliance on financial statements that are prepared by public companies and other issuers

[1] 17 CFR 210.2–07.

[2] 17 CFR 210.2–01.

[3] 17 CFR 240.14a–101.

[4] 17 CFR 249.310; 17 CFR 249.310b; 17 CFR 249.220f; 17 CFR 249.240f.

[5] 17 CFR 249.331; 17 CFR 274.128.

[6] 17 CRF 240.10A–2.

[7] Pub. L. 107–204, 116 Stat. 745 (2002).

[8] The amendments were proposed in Securities Act Release No. 8154 (December 2, 2002) 67 FR 76779–76817.

and that, as required by Congress, are audited by independent auditors. We believe the final rules strike a reasonable balance among commenters' differing views about the proposals while achieving our important public policy goals.[9]

As directed by the Sarbanes-Oxley Act, the rules focus on key aspects of auditor independence: the provision of certain non-audit services, the unique ability and responsibility of the audit committee to insulate the auditor from the pressures that may be exerted by management, the potential conflict of interest that can be created when a former member of the audit engagement team accepts a key management position with the audit client, and the need for effective communications between the auditor and audit committee. In addition, under the final rules, an accountant would not be independent from an audit client if any audit partner received compensation based directly on selling engagements to that client for services other than audit, review and attest services.

Title II of the Sarbanes-Oxley Act adds new subsections (g) through (l) to Section 10A of the Securities Exchange Act of 1934 as follows:

- Section 201 adds sub-section (g), which specifies that a number of non-audit services are prohibited. Many of these services were previously prohibited by the Commission's independence standards adopted in November 2000 (with some exceptions and qualifications).[10] The rules we are adopting amend the Commission's existing rules on auditor independence and clarify the meaning and scope of the prohibited services under the Sarbanes-Oxley Act.
- Section 201 also adds sub-section (h), which requires that non-audit services that are not prohibited under the Sarbanes-Oxley Act and the Commission's rules be subject to pre-approval by the registrant's audit committee. These rules specify the requirements for obtaining such pre-approval from the registrant's audit committee.
- Section 202 adds sub-section (i), which requires an audit committee to pre-approve allowable non-audit services and specifies certain exceptions to the requirement to obtain pre-approval. These rules specify the requirements of the registrant's audit committee for pre-approving non-audit services by the auditor of the registrant's financial statements.
- Section 203 adds sub-section (j), which establishes mandatory rotation of the lead partner and the concurring partner every five years. These rules expand the number of engagement personnel covered by the rotation requirement and clarify the ''time out'' period.
- Section 204 adds sub-section (k), which requires that the auditor report on a timely basis certain information to the audit committee. In particular, the Sarbanes-Oxley Act requires that the auditor report to the audit committee on a timely basis (a) all critical accounting policies used by the registrant, (b) alternative accounting treatments that have been discussed with management along with the potential ramifications of using those alternatives, and (c) other written communications provided by the auditor to management, including a schedule of unadjusted audit differences.[11] These rules strengthen the relationship between the audit committee and the auditor.
- Section 206 adds sub-section (l) addressing certain conflict of interest provisions. The Sarbanes-Oxley Act prohibits an accounting firm from performing audit services for a registrant if certain key members of management have recently been employed in an audit capacity by the audit firm. These rules clarify which members of management are covered by these conflict of interest rules.

In addition, under the final rules, an accountant would not be independent of an audit client if an audit partner received compensation based on selling engagements to that client for services other than audit, review and attest services.

As noted above, the rules establish and clarify the important roles and responsibilities of registrant audit committees as well as the registrant's independent accountant.[12]

We have adopted a separate rule under Exchange Act Section 10A (17 CFR 240.10A–2) to implement Section 3(b)(1) of the Sarbanes-Oxley Act and clarify that our rules implementing Title II of Sarbanes-Oxley not only define conduct that impairs independence but also constitute separate violations under the Exchange Act. We have otherwise adopted rules (except for the proxy disclosure changes) as part of Regulation S–X, and placed them among the current auditor independence provisions.

II. Discussion of Rules

A.Conflicts of Interest Resulting From Employment Relationships

The Commission's previous rules deem an accounting firm to be not independent with respect to an audit client if a former partner, principal, shareholder, or professional employee of an accounting firm[13] accepts employment with a client if he or she has a continuing financial interest in the accounting firm or is in a position to influence the firm's operations or financial policies. These rules renumber, but do not otherwise change, that existing requirement.

Consistent with Section 206 of the Sarbanes-Oxley Act, we are adding a restriction on employment with audit clients by former employees of the accounting firm. The Act specifies that an accounting firm cannot perform an audit for a registrant:

> * * *[i]f a chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for the issuer, was employed by that registered independent public accounting firm and *participated in any capacity in the audit* of that issuer during the 1-year period preceding the date of the initiation of the audit.[14] (emphasis added)

Thus, the Act requires a ''cooling off'' period of one year before a member of the audit engagement team can begin working for the registrant in certain key positions. Based on the provisions of the Act, we proposed that the employment of former audit engagement team[15] members of an accounting firm in a financial reporting oversight role[16] at an audit client would cause the accounting firm not to be independent with respect to that registrant if they were members of the audit engagement team within one year prior to the commencement of procedures for the current audit engagement. The rules that we proposed would have applied to employment relationships entered into between

[9] In addition to soliciting comments in the Proposing Release, we held one roundtable (December 17, 2002). The public comments we received can be reviewed in our Public Reference Room at 450 Fifth Street, NW., Washington, DC 20549, in File No. S7–49–02. Public comments submitted by electronic mail are on our Web site, *www.sec.gov*.

[10] The Commission adopted a set of rules governing auditor independence on November 21, 2000. See Release No. 33–7919 (Nov. 21, 2000); 65 FR 76008 (Dec. 5, 2000) (hereinafter ''November 2000 release'').

[11] SAS No. 89, ''Audit Adjustments,'' (Dec. 1999) at AU § 380.

[12] The Commission's rules respond not only to the provisions of the Sarbanes-Oxley Act but also the rulemaking petitions filed by the AFL–CIO on December 11, 2001 and The Honorable H. Carl McCall on January 21, 2002.

[13] Consistent with our existing rules, the terms accounting firm and accountant are used interchangeably in this release. The term ''accountant'' is defined in § 210.2–01(f)(1) below.

[14] *See,* Section 206 of the Sarbanes-Oxley Act.

[15] *See,* Rule 2–01(f)(7).

[16] *See,* Rule 2–01(f)(3)(ii).

''audit engagement team'' members and their ''audit clients.'' [17]

The concept of a ''cooling-off'' period before an auditor can take a position at the audit client was previously considered by the Independence Standards Board.[18] In considering a cooling-off period, the Independence Standards Board noted that a mandated cooling-off period for partners and professional staff might create a greater appearance of independence between the accounting firm and the registrant.[19] Ultimately, however, the Independence Standards Board provided for an alternative to a cooling-off period. The Independence Standards Board concluded that:

> An audit firm's independence is impaired with respect to an audit client that employs a former firm professional who could, by reason of his or her knowledge of and relationships with the audit firm, adversely influence the quality or effectiveness of the audit, unless the firm has taken steps that effectively eliminate such risk.[20]

Independence Standards Board's Standard No. 3 specifically notes that additional caution is warranted when it has been less than one year since the professional disassociated him or herself from the firm.[21] The provisions of the Sarbanes-Oxley Act reflect the view that the passage of time is an additional safeguard to reduce the perceived loss of independence for the audit firm caused by the acceptance of employment by a member of the engagement team with an audit client.

Some commenters [22] stated that the rule should apply only to partners on the audit engagement team. However, we believe that the Act is clear that the cooling off period should apply more broadly. Additionally, our proposal would have applied to relationships between members of the audit engagement team and the audit client. Some commenters [23] believe that extending the requirement to the audit client was too broad. In some situations (such as certain affiliate companies), it could be difficult for the accounting firm and its audit clients to monitor and, in some cases, control the employment relationship.

Our proposed rule did not make a distinction based on the number of hours of audit, review, or attest services provided in determining who would be subject to this rule. The Act refers to individuals who ''participated in any capacity in the audit.'' Commenters [24] noted that not all members of the audit engagement team, as that term is currently defined, necessarily participate in a meaningful audit capacity.

As discussed both in our proposing release and in this release, the term ''financial reporting oversight role'' refers to any individual who has direct responsibility for oversight over those who prepare the registrant's financial statements and related information (*e.g.*, management's discussion and analysis) that are included in filings with the Commission. Some commenters [25] stated that the final rule only should apply to the four named positions in the Act (*e.g.*, chief executive officer, controller, chief financial officer, chief accounting officer). Other commenters,[26] however, agreed with the Commission's approach of using the concept of financial reporting oversight role.

In response to the issues raised by commenters,[27] we are requiring that when the lead partner, the concurring partner, or any other member of the audit engagement team [28] who provides more than ten hours of audit, review or attest services for the issuer accepts a position with the issuer in a financial reporting oversight role within the one year period preceding the commencement of audit procedures for the year that included employment by the issuer of the former member of the audit engagement team, the accounting firm is not independent with respect to that registrant. Our rule applies to all members of the audit engagement team unless specifically exempted, as discussed later in this section of the release.

We agree with the commenters [29] who noted that extending the requirement to the ''audit client'' might be difficult to monitor because of the potentially broad scope of that defined term—particularly in situations where a member of the audit engagement team begins employment with an affiliate of the audit client.[30] Accordingly, the rules that we are adopting apply to employment relationships entered into between members of the audit engagement team and the ''issuer.'' [31]

The Commission recognizes that, in certain instances, there are individuals who meet the definition of engagement team members while spending a relatively small amount of time on audit-related matters of the issuer. For example, a staff member may be asked to spend one day of time to observe inventory. While the input may have been important to resolving specific aspects of the audit, the staff member likely has not had significant interaction with the audit engagement team or management of the issuer. However, it is likely that those who spent more than a *de minimis* amount of time on the engagement team did participate in a meaningful audit capacity. Because of their roles in the engagement, the lead and concurring partner always should participate in a meaningful audit capacity, regardless of the number of hours spent on the engagement.

In order to provide useful guidance, our rule on conflicts of interest resulting from employment relationships specifies that, other than the lead and concurring partner, an individual [32] must provide more than ten hours of service during the annual audit period [33] as a member of the engagement team to have participated in an audit capacity. The Commission previously has considered a threshold based on the number of hours of service and, based on our experience, concluded that use of ten hours of service to the client

---

[17] *See,* Rule 2–01(f)(6).

[18] The Independence Standards Board was a private sector body that, from 1997 to 2001, was charged with the responsibility to set auditor independence standards for auditors of the financial statements of SEC registrants. *See* Financial Reporting Release Nos. 50 (February 18, 1998) and 50A (July 17, 2001).

[19] Independence Standards Board, ''Employment with Audit Clients,'' *Discussion Memorandum 99–1* (March 12, 1999).

[20] Independence Standards Board, ''Employment with Audit Clients,'' *Standard No. 3* (July 2000).

[21] *Id.*, ¶ 2(b)(iii).

[22] *See, e.g.*, letter from Asahi & Co., dated January 10, 2003; letter from CPA Associates, dated January 3, 2003; letter from International Group of Accounting Firms, dated December 24, 2002.

[23] *See, e.g.*, letter from Eli Lilly and Company, dated January 9, 2003; letter from KPMG, dated January 9, 2003; letter from PricewaterhouseCoopers, dated January 8, 2003; letter from Roland G. Ley, dated January 9, 2003.

[24] *See, e.g.*, letter from American Institute of Certified Public Accountants, dated January 9, 2003; letter from KPMG, dated January 9, 2003; letter from Instituted of Chartered Accountants of Scotland, dated January 8, 2003.

[25] *See, e.g.*, letter from Eli Lilly and Company, dated January 9, 2003; letter from McGladrey & Pullen LLP, dated January 9, 2003; letter from PricewaterhouseCoopers, dated January 8, 2003; letter from Computer Sciences Corporation, dated January 13, 2003.

[26] *See, e.g.*, letter from Consumer Federation of America, dated January 13, 2003.

[27] *See, e.g.*, letter from Deloitte & Touche, dated January 10, 2003; letter from KPMG, dated January 9, 2003; letter from PricewaterhouseCoopers, dated January 8, 2003.

[28] *See,* Rule 2–01(f)(7).

[29] *See, e.g.*, letter from KPMG, dated January 9, 2003; letter from PricewaterhouseCoopers, dated January 8, 2003.

[30] *See,* Rule 2–01(f)(4).

[31] *See,* Section 3(a)(8) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(8)).

[32] It should be noted that the ten hour threshold does not apply to the lead or concurring review partner. Such individuals are always subject to these rules, regardless of the number of hours of audit, review or attest services provided.

[33] This includes hours of service provided in reviewing the issuer's quarterly filing or in providing attest services for the issuer related to the audit.

constitutes a reasonable basis for distinguishing whether there has been participation on the audit.[34]

The Commission has determined that using the ''financial reporting oversight role'' is a better test for the scope of the provision than the four particular officers named in the Act. As discussed in the definitions section of this release, the term financial reporting oversight role is not a new concept. Furthermore, in addition to naming four specific positions, the Act also states that the cooling off period applies to ''any person serving in an equivalent position for the issuer.'' Because issuers do not use uniform titles nor do all named positions (*e.g.*, controller) have uniform duties among all issuers, we believe that a more complete definition of the applicable positions is needed. Furthermore, the term financial reporting oversight role captures other key positions, such as members of the board of directors, who may have significant interaction with the audit engagement team.

While the rule is intended to apply broadly to members of the audit engagement team, we recognize the need to provide accommodations for certain unique situations. In addition to the exemption discussed previously for those who provided ten or fewer hours of audit, review, or attest services, the final rule provides an exception for conflicts that are created through merger or acquisition. Some commenters [35] noted that an individual may have complied fully with the rule and, subsequent to his or her beginning employment with an issuer, the issuer merged with or was acquired by another entity resulting in he or she becoming a person in a financial reporting oversight role of the combined entity and the combined entity being audited by the individual's previous employer. In such a situation, unless the employment was taken in contemplation of the combination, the individual or the issuer could not be expected to know that his or her employment decision would result in a conflict. Thus, as long as the audit committee is aware of this conflict, the audit firm would continue to be independent under these rules.

Further, we recognize that other unusual situations that may arise. For example, some commenters [36] have stated that in certain foreign jurisdiction it may be extremely difficult or costly to comply with these requirements. Accordingly, we have provided an additional exemption for emergency or unusual circumstances which we anticipate being invoked very rarely. However, in order for a company to avail itself of this exemption, the audit committee [37] must determine that doing so is in the best interests of investors.

Some commenters [38] stated that determining the time period of the prohibition would be difficult to apply as proposed. We recognize the difficulties when there is, potentially, a different applicable date for each member of the engagement team. For that reason, our final rule adopts a uniform date for all members of the engagement team.

For purposes of this rule, audit procedures are deemed to have commenced for the current audit engagement period the day after the prior year's periodic annual report (*e.g.*, Form 10–K, 10–KSB, 20–F or 40–F) is filed with the Commission. The audit engagement period for the current year is deemed to conclude the day the current year's periodic annual report (for example, Form 10–K, 10–KSB, 20–F or 40–F) is filed with the Commission.

To illustrate the application of this rule, assume that Issuer A's Forms 10–K are filed on March 15, 2003, April 5, 2004, March 10, 2005, and March 30, 2006. Issuer A is a calendar-year reporting entity. The audit engagement periods would be deemed to commence and end:

Annual Period	Engagement Period Commences	Engagement Period Ends
2003	March 16, 2003.	April 5, 2004
2004	April 6, ...	2004 March 10, 2005
2005	March 11, 2005.	March 30, 2006

If audit engagement person B provided audit, review or attest services for Issuer A *at any time* during the 2003 engagement period (March 16, 2003—April 5, 2004), and he or she begins employment with Issuer A in a financial reporting oversight role prior to March 11, 2005, the accounting firm would be deemed to be not independent with respect to Issuer A. For example, if person B last performed audit, review or attest services for Issue A on March 24, 2003 and he or she began employment with Issuer A in a financial reporting oversight role prior to March 11, 2005, the accounting firm would be deemed to be not independent with respect to Issuer A. Likewise, if person B provided audit, review or attest services for Issuer A at any time during the 2004 engagement period (April 6, 2004—March 10, 2005) and he or she began employment with Issuer A in a financial reporting oversight role prior to March 31, 2006, the accounting firm would be deemed to be not independent with respect to Issuer A.

The Act specifies that the cooling off period must be one year. Under our rules, the prohibition would require that the accounting firm has completed one annual audit [39] subsequent to when an individual was a member of the audit engagement team. As previously discussed, the measurement period is based upon the dates the issuer filed its annual financial information with the Commission.

With respect to investment companies, we proposed that the employment of a former audit engagement team member in a financial reporting oversight role at any entity in the same investment company complex during the one year period after the completion of the last audit would impair the independence of the accounting firm with respect to the audit client. The proposed rule was designed to prevent a former audit engagement team member from taking a position in an investment company complex where they could influence the preparation of the financial statements or the conduct of the audit.

Several commenters [40] suggested this requirement was too broad and could have unintended consequences, such as preventing a former audit engagement team member on an investment company audit engagement from taking a financial reporting position at an entity in the investment company complex whose operations are unrelated to the investment company. Some

[34] Use of ten hours as a threshold is consistent with the determination of a ''covered person'' as specified by § 210.2–01(f).

[35] *See, e.g.*, letter from Deloitte & Touche, dated January 10, 2003; letter from KPMG, dated January 9, 2003; letter from PricewaterhouseCoopers, dated January 8, 2003.

[36] *See, e.g.*, letter from Deloitte & Touche, dated January 10, 2003; letter from European Commission, dated January 13, 2003.

[37] These rules do not require the company to have an independent audit committee. *See,* discussion of definitions in this release.

[38] *See, e.g.*, letter from Ernst & Young, dated January 6, 2003; letter from KPMG, dated January 9, 2003; letter from Sullivan & Cromwell LLP, dated January 10, 2003; letter from California Public Employees' Retirement System, dated January 10, 2003.

[39] As used here, the term annual audit also includes procedures needed to conduct timely review of interim periods as well as procedures needed to attest to the registrant's internal controls.

[40] *See,* letter from Deloitte & Touche, dated January 10, 2003; letter from PricewaterhouseCoopers, dated January 8, 2003; letter from Investment Company Institute, dated January 13, 2003.

commenters [41] acknowledged, however, that it was in investors' interests to prevent audit engagement team members from leaving the firm and assuming a financial reporting oversight role at an entity in the investment company complex that had responsibility for the financial reporting or operations of the investment company audit client. One commenter [42] suggested the rule should not apply to positions at service providers solely because they are in the investment company complex.

Due to the unique structure of investment companies, where the normal operating activities, including activities related to the preparation of financial statements, are provided by outside service providers, we believe the rules need to extend beyond the investment company itself. After considering the comments, we agree, however, that the reach of the rule as proposed was too broad and have determined to tailor the scope of the rule with respect to investment companies to those situations where independence could be impaired. As adopted, an accounting firm would not be independent if a former audit engagement team member is employed in a financial reporting oversight role with not only the registered investment company, but also with any entity in the same investment company complex that is responsible for the financial reporting or operations of the registered investment company or any other registered investment company in the same investment company complex. The adopted rule prohibits employment in positions at an investment company complex that would allow a former audit engagement team member to bring undue influence over the audit process of an investment company. The rule recognizes that certain positions exist at an entity in the investment company complex that would be considered financial reporting or oversight positions but those positions have no direct influence in the financial reporting or operations of an investment company in the investment company complex. In these instances, we believe tailoring the focus of this rule will not harm investor interests.

We recognize the need to provide for orderly transition. We believe it would be unfair to expect those who began employment before the effective date of these rules to be asked to sever those employment relationships. Accordingly, these rules are effective for employment relationships with the issuer that commence after the effective date of these rules.

B. Scope of Services Provided by Auditors

Section 201(a) of the Sarbanes-Oxley Act adds new Section 10A(g) to the Securities Exchange Act of 1934. Except as discussed below, this section states that it shall be unlawful for a registered public accounting firm that performs an audit of an issuer's financial statements (and any person associated with such a firm) to provide to that issuer, contemporaneously with the audit, any non-audit services, including the nine categories of services set forth in the Act. Additionally, the Act provides that the provision of ''any non-audit service, including tax services, that is not described'' as a prohibited service, can be provided by the auditor without impairing the auditor's independence ''only if'' the service has been pre-approved by the issuer's audit committee. The nine categories of prohibited non-audit services included in the Act are:

- Bookkeeping or other services related to the accounting records or financial statements of the audit client;
- Financial information systems design and implementation;
- Appraisal or valuation services, fairness opinions, or contribution-in-kind reports;
- Actuarial services;
- Internal audit outsourcing services;
- Management functions or human resources;
- Broker or dealer, investment adviser, or investment banking services;
- Legal services and expert services unrelated to the audit; and
- Any other service that the Board [43] determines, by regulation, is impermissible.

The Commission's principles of independence with respect to services provided by auditors are largely predicated on three basic principles, violations of which would impair the auditor's independence: (1) An auditor cannot function in the role of management, (2) an auditor cannot audit his or her own work, and (3) an auditor cannot serve in an advocacy role for his or her client.[44]

Some commenters [45] stated that the Commission should prohibit the audit firm from performing most, if not all, non-audit services. Other commenters [46] supported a less strict approach. Consistent with our proposing release,[47] we are adopting rules related to the scope of services that independent accountants can provide to their audit clients. In adopting these rules, the Commission is clarifying the scope of the prohibited services. The prohibited services contained in these rules only apply to non-audit services provided by independent accountants to their audit clients. These rules do not limit the scope of non-audit services provided by an accounting firm to a non-audit client. Under the Act, the responsibility falls on the audit committee to pre-approve all audit and non-audit services provided by the accountant.

Recognizing that audit clients may need a period of time to exit existing contracts our rules provide that until May 6, 2004 the provision of services described in § 210.2–01(c)(4) will not impair an accountant's independence *provided* those services are pursuant to contracts in existence on May 6, 2003.[48]

1. Bookkeeping or Other Services Related Accounting Records or Financial Statements of the Audit Client

Previously, an auditor's independence was impaired if the auditor provided bookkeeping services to an audit client, except in limited situations, such as in an emergency or where the services are provided in a foreign jurisdiction and certain conditions were met. The current Rule 2–01(c)(4)(i) continues the prohibition on bookkeeping, but we have eliminated the limited situations where bookkeeping services could have been provided under the previous rules.

Some commenters [49] suggested that bookkeeping services should be permitted, especially under the previous exceptions. However, our independence

[41] *See,* letter from Investment Company Institute, dated January 13, 2003; letter from Deloitte & Touche, dated January 10, 2003.

[42] *See,* letter from PricewaterhouseCoopers dated January 8, 2003.

[43] As used in this section of the Act, the term Board refers to the Public Company Accounting Oversight Board.

[44] *See,* Preliminary note to Rule 2–01 of Regulation S–X, 17 CFR 210.2–01.

[45] *See, e.g.*, letter from California Public Employees' Retirement System, dated January 10, 2003; letter from William E. Fraser, dated November 26, 2002, letter from Ellen Sweet, dated November 26, 2002, letter from Council on Institutional Investors, dated January 10, 2003.

[46] *See, e.g.*, letter from Chamber of Commerce of the United States of America, dated January 9, 2003; letter from America's Community Bankers, dated January 13, 2003; letter from Deloitte & Touche LLP, dated January 10, 2003; letter from American Society of Corporate Secretaries, dated January 13, 2003.

[47] 17 CFR parts 210, 240, 249 and 274.

[48] Additionally, in the unusual instance where additional time is needed to exit an existing contract, the staff in the Office of the Chief Accountant or the Public Company Accounting Oversight Board may be consulted on a case by case basis.

[49] *See, e.g.*, letter from American Institute of Certified Public Accountants, dated January 9, 2003; letter from Radin, Gloss & Co., dated December 31, 2002; letter from Grant Thornton LLP, dated January 13, 2003; letter from International Federation of Accountants, dated January 10, 2003.

rules are predicated on the three basic principles enumerated earlier. One of those principles is that an auditor cannot audit his or her own work and maintain his or her independence. When an accounting firm provides bookkeeping services for an audit client, the firm may be put in the position of later auditing the accounting firm's own work. If, during an audit, an accountant must audit the bookkeeping work performed by his or her accounting firm, it is questionable that the accountant could, or that a reasonable investor would believe that the accountant could, remain objective and impartial. If the accountant found an error in the bookkeeping, the accountant could well be under pressure not to raise the issue with the client if raising the issue could jeopardize the firm's contract with the client for bookkeeping services or result in heightened litigation risk for the firm. In addition, keeping the books is a management function, which also is prohibited.[50]

Accordingly, we are adopting rules stating that all bookkeeping services would cause the auditor to lack independence unless it is reasonable to conclude that the results will not be subject to audit procedures. We proposed to prohibit bookkeeping services unless it was ''reasonably likely that such services would not be subject to audit procedures.'' Our final rules make clear the presumption to emphasize the responsibility the accounting firm has in making a determination that the bookkeeping services will not be subject to audit procedures.

The rules utilize the previous definition of bookkeeping or other services, which focuses on the provision of services involving: (1) Maintaining or preparing the audit client's accounting records, (2) preparing financial statements that are filed with the Commission or the information that forms the basis of financial statements filed with the Commission, or (3) preparing or originating source data underlying the audit client's financial statements. Our experience with this definition demonstrates that the concept of bookkeeping and other services is well understood in practice.

We understand that accountants sometimes are asked to prepare statutory financial statements for foreign companies, and these are not filed with us. Consistent with the Commission's previous rules, an accountant's independence would be impaired where the accountant prepared the statutory financial statements if those statements form the basis of the financial statements that are filed with us. Under these circumstances, an accountant or accounting firm who has prepared the statutory financial statements of an audit client is put in the position of auditing its own work when auditing the resultant U.S. GAAP financial statements.

With respect to the prohibitions on (1) bookkeeping; (2) financial information systems design and implementation; (3) appraisal, valuation, fairness opinions, or contribution-in-kind reports; (4) actuarial; and (5) internal audit outsourcing, the rules state that the service may not be provided ''unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements.'' [51] As proposed, for bookkeeping, appraisal or valuation, and actuarial services, the provision was ''where it is reasonably likely that the results of these services will be subject to audit procedures during an audit of the audit client's financial statements'' while for the other two services, there was no such wording. We have added the new wording to all five services to provide consistency in application. Additionally, the change from ''reasonably likely * * *'' to ''unless it is reasonable to conclude'' is intended to narrow the circumstances in which that condition can be invoked to justify the provision of such services.[52]

2. Financial Information Systems Design and Implementation

Currently, Paragraph (c)(4)(ii) identifies certain information technology services that, if provided to an audit client, impair the accountant's independence. The proposed rules identified information technology services that would impair the auditor's independence. Under Paragraph (c)(4)(ii)(A) of the proposed rule, an accountant would not be independent if the accountant directly or indirectly operates or supervises the operation of the audit client's information system or manages the audit client's local area network or information system. Further, Paragraph (c)(4)(ii)(B) of the proposed rule provided that an accountant is *not* deemed independent if the accountant designs or implements a hardware or software system that aggregates source data underlying the financial statements or generates information that is significant to the audit client's financial statements taken as a whole. These services were deemed to impair an accountant's independence under our previous rules.

Some commenters [53] suggested that the Commission's rules should include a dollar threshold limit or other qualifying language. Others [54] suggested that the Commission should clarify that the prohibition on designing and implementing systems would include selecting and testing a client's financial information system. Commenters [55] also believe that the Commission should clarify that recommendations for improvements in the systems should be permitted.

The Commission is adopting rules, consistent with our previous rules, that prohibited the accounting firm from providing any service related to the audit client's information system, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements. These rules do not preclude an accounting firm from working on hardware or software systems that are unrelated to the audit client's financial statements or accounting records as long as those services are pre-approved by the audit committee.

As noted above, the rule prohibits the accountant from designing or implementing a hardware or software system that aggregates source data or generates information that is ''significant'' to the financial statements taken as a whole. In this context, information would be ''significant'' if it is reasonably likely to be material to the financial statements of the audit client. Since materiality determinations may not be complete before financial statements are generated, the audit client and accounting firm by necessity will need to evaluate the general nature of the information as well as system output during the period of the audit engagement. An accountant, for

[50] Letter of Samuel L. Burke, Associate Chief Accountant, SEC, to Florida Institute of Certified Public Accountants re: bookkeeping (March 4, 2002).

[51] An example of a situation where it would be reasonable to conclude that the results would not be subject to audit procedures would be where an accounting firm provides a prohibited service to an affiliate of the client, as defined in Rule 2–01(f)(4), but the accounting firm is not the auditor of the entity or entities that controls the accounting firm's audit client or its affiliate.

[52] As such, there is a rebuttable presumption that the services are subject to audit procedures.

[53] *See, e.g.,* letter from Radin, Glass & Co., dated December 31, 2002; letter from Institute of Chartered Accountants in England & Wales, dated December 24, 2002; letter from Deloitte & Touche LLP, dated January 10, 2003.

[54] *See, e.g.,* letter from HarborView Partners LLC, dated December 4, 2002; letter from California Public Employees' Retirement System, dated January 10, 2003; letter from Center for Investor Trust, dated January 13, 2003.

[55] *See, e.g.,* letter from Sullivan & Cromwell LLP, dated January 10, 2003.

example, would not be independent of an audit client for which it designed an integrated Enterprise Resource Planning (''ERP'') or similar system since the system would serve as the basis for the audit client's financial reporting system.

Designing, implementing, or operating systems affecting the financial statements may place the accountant in a management role, or result in the accountant auditing his or her own work or attesting to the effectiveness of internal control systems designed or implemented by that accountant.[56] For example, if an auditor designs or installs a computer system that generates the financial records, and that system generates incorrect data, the accountant is placed in a position of having to report on his or her firms' own work. Investors may perceive that the accountant would be unwilling to challenge the integrity and efficacy of the client's financial or accounting information collection systems that the accountant designed or installed.

However, this prohibition does not preclude the accountant from evaluating the internal controls of a system as it is being designed, implemented or operated either as part of an audit or attest service and making recommendations to management. Likewise, the accountant would not be precluded from making recommendations on internal control matters to management or other service providers in conjunction with the design and installation of a system by another service provider.

3. Appraisal or Valuation Services, Fairness Opinions, or Contribution-in-Kind Reports

The Commission's previous independence rules stated that an accountant is deemed to lack independence when providing appraisal or valuation services, fairness opinions, or contribution-in-kind reports for audit clients. However, the previous rules contained certain exemptions that we proposed to eliminate.[57] The proposals provided that the auditor is not independent if the auditor provides appraisal or valuation services, or contribution-in-kind reports,[58] where it is reasonably likely that the results of the service will not be subject to audit procedures by the auditor because the auditor is in a position of auditing his or her own work. Additionally, an accountant was not independent under the proposal if he or she provided a fairness opinion because to do so requires the accountant to function as a part of management and may require the accountant to audit the results of his or her own work.

Appraisal and valuation services include any process of valuing assets, both tangible and intangible, or liabilities. They include valuing, among other things, in-process research and development, financial instruments, assets and liabilities acquired in a merger, and real estate. Fairness opinions and contribution-in-kind reports are opinions and reports in which the firm provides its opinion on the adequacy of consideration in a transaction.

Some commenters[59] believe that our proposed prohibitions were appropriate and others would be even more restrictive.[60] Other commenters,[61] however, believe that certain valuation services should be permissible.

We continue to believe that providing these services to audit clients raises several independence concerns. When it is time to audit the financial statements, it is likely that the accountant would review his or her own work, including key assumptions or variables that underlie an entry in the financial statements. Also, if the appraisal methodology involves a projection of future results of operations and cash flows, some[62] believe that the accountant that prepares the projection may be unable to evaluate skeptically and without bias the accuracy of that valuation or appraisal. Accordingly, the rules we are adopting prohibit the accountant from providing any appraisal service, valuation service or any service involving a fairness opinion or contribution-in-kind report for an audit client, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements.

Our rules do not prohibit an accounting firm from providing such services for non-financial reporting (*e.g.*, transfer pricing studies, cost segregation studies, and other tax-only valuations) purposes. Also, the rule does not prohibit an accounting firm from utilizing its own valuation specialist to review the work performed by the audit client itself or an independent, third-party specialist employed by the audit client, provided the audit client or the client's specialist (and not the specialist used by the accounting firm) provides the technical expertise that the client uses in determining the required amounts recorded in the client financial statements. In those instances the accountant will not be auditing his or her own work because a third party or the audit client is the source of the financial information subject to the audit. Additionally, the quality of the audit may be improved where specialists are utilized in such situations.

Some commenters[63] believe that a strict application of these rules related to contribution-in-kind reports may create conflicts in certain foreign jurisdictions. We are sensitive to these issues and, as we have done in the past,[64] we will continue to work with other regulatory agencies.

4. Actuarial Services

The previous rules generally bar auditors only from providing actuarial services related to insurance company policy reserves and related accounts. Our proposal provided that the accountant is not independent if the auditor provides any actuarial service involving the amounts recorded in the financial statements and related accounts for the audit client where it is reasonably likely that the results of

[56] *See,* Section 404(b) of the Sarbanes-Oxley Act.

[57] Exemptions proposed to be eliminated included: (1) Firm's valuation expert can review the work of a client's specialist; (2) firm's actuaries can value a client's pension or other post-retirement benefit obligation provided that the client assumes responsibility for significant assumptions; (3) valuations performed for planning and implementing tax-planning strategies; and (4) valuations for non-financial purposes which do not affect the financial statements.

[58] Laws or regulations in certain foreign countries require the auditor in connection with designated transactions of its audit clients, to provide contribution-in-kind reports that express an opinion on the fairness of the transaction, the value of a security, or the adequacy of consideration to shareholders.

[59] *See, e.g.,* letter from Piercy, Bowler, Taylor & Kern, dated January 7, 2003; letter from Robert G. Beard, undated; letter from BDO Seidman LLP, dated January 13, 2003.

[60] *See, e.g.,* letter from Stikeman Elliot, dated January 13, 2003; letter from California Public Employees' Retirement System, dated January 10, 2003.

[61] *See, e.g.,* letter from American Institute of Certified Public Accountants, dated January 9, 2003; letter from HSBC, dated January 1, 2003; letter from PricewaterhouseCoopers, dated January 8, 2003.

[62] *See, e.g.,* letter from Aurora Group, dated January 13, 2003; letter from Cowhey, Girard Consulting, dated December 30, 2002.

[63] *See, e.g.,* letter from Japanese Institute of Certified Public Accountants, dated January 13, 2003; letter from The Hundred Group of Finance Directors, dated January 13, 2003; letter from European Commission, dated January 13, 2003.

[64] Letter of Lynn Turner, Chief Accountant, SEC, to Commissione Nazionale per le Societa e la Borsa re: auditor independence (August 24, 2000). In that letter, the Chief Accountant did not deem the auditor's independence to be impaired where there were certain agreed-upon procedures for the contribution-in-kind report and the accountant represented in the report that the report did not express an opinion on the fairness of the transaction, the value of the security, or the adequacy of consideration to shareholders. This letter is available on our website.

these services will be subject to audit procedures during an audit of the audit client's financial statements because providing these services may cause an accountant later to audit his or her own work. Additionally, accountants providing these services assume a key management task. In addition, actuarially-oriented advisory services may affect amounts reflected in some company's financial statements.

Some commenters [65] agreed with our proposed prohibition of actuarial services. Others,[66] however, believe that some types of actuarial services should be permitted.

Consistent with our proposal, we continue to believe that when the accountant provides actuarial services for the client, he or she is placed in a position of auditing his or her own work. Accordingly, the rules we are adopting prohibit an accountant from providing to an audit client any actuarially-oriented advisory service involving the determination of amounts recorded in the financial statements and related accounts for the audit client other than assisting a client in understanding the methods, models, assumptions, and inputs used in computing an amount, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements.

As can be seen, however, we believe that it is appropriate to advise the client on the appropriate actuarial methods and assumptions that will be used in the actuarial valuations. It is not appropriate for the accountant to provide the actuarial valuations for the audit client.

The rules also provide that the accountant may utilize his or her own actuaries to assist in conducting the audit provided the audit client uses its own actuaries or third-party actuaries to provide management with its actuarial capabilities.

5. Internal Audit Outsourcing

Our previous rules on internal audit outsourcing allowed a company to outsource part of its internal audit function to the independent audit firm subject to certain exemptions. For example, smaller businesses were exempt from the internal audit outsourcing prohibition because there had been concerns about the potentially disproportionate impact on such companies.

Some companies ''outsource'' internal audit functions by contracting with an outside source to perform, among other things, all or part of their audits of internal controls. As emphasized by the Committee of Sponsoring Organizations (''COSO''), internal auditors play an important role in evaluating and monitoring a company's internal control system.[67] As a result, some argue that internal auditors are, in effect, part of a company's system of internal accounting control.[68]

Since the external auditor typically will rely, at least to some extent, on the existence of an internal audit function and consider its impact on the internal control system when conducting the audit of the financial statements,[69] the accountant may be placed in the position of auditing his or her firm as part of the internal control system. In other words, if the internal audit function is outsourced to an accountant, the accountant assumes a management responsibility and becomes part of the company's control system. Our proposed rule provided that an accountant is not independent when the accountant performs internal audit services related to the internal accounting controls, financial systems, or financial statements, for an audit client.

Some commenters [70] agreed with the proposed rule. While some commenters [71] believed that our rule should contain exemptions for smaller companies, others [72] did not. Some commenters [73] believed that the final rule should include a ''reasonably likely to be subject to audit procedures'' provision similar to other prohibited services (*e.g.,* bookkeeping). Still other commenters [74] suggested that the Commission should clarify that services provided in conjunction with an audit or attest service are permissible.

The rules we are adopting prohibit the accountant from providing to the audit client internal audit outsourcing services. This prohibition would include any internal audit service that has been outsourced by the audit client that relates to the audit client's internal accounting controls, financial systems, or financial statements unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements.

During the conduct of the audit in accordance with generally accepted auditing standards (''GAAS'') or when providing attest services related to internal controls, the auditor evaluates the company's internal controls and, as a result, may make recommendations for improvements to the controls. Doing so is a part of the accountant's responsibilities under GAAS or applicable attestation standards and, therefore, does not constitute an internal audit outsourcing engagement.

Along those lines, this prohibition on ''outsourcing'' does not preclude engaging the accountant to perform nonrecurring evaluations of discrete items or other programs that are not in substance the outsourcing of the internal audit function. For example, the company may engage the accountant, subject to the audit committee pre-approval requirements, to conduct ''agreed-upon procedures'' engagements [75] related to the company's internal controls, since management takes responsibility for the scope and assertions in those engagements. The prohibition also does not preclude the accountant from performing operational internal audits unrelated to the internal accounting controls, financial systems, or financial statements.

6. Management Functions

In our proposal, we did not propose any significant change to our previous rule on management functions. Some commenters [76] suggested that we clarify

[65] *See, e.g.,* letter from California Public Employees' Retirement System, dated January 10, 2003; letter from Aon Consulting, dated January 13, 2003.

[66] *See, e.g.,* letter from PricewaterhouseCoopers, dated January 8, 2003; letter from Deloitte & Touche LLP, dated January 10, 2003; letter from General Electric Company, dated January 9, 2003.

[67] *See,* Committee of Sponsoring Organizations of the Treadway Commission (COSO), *Internal Control—Integrated Framework,* at 7 (1992) (the ''COSO Report'').

[68] *See,* SAS No. 65, ''The Auditor's Consideration of the Internal Audit Function in an Audit of Financial Statements,'' AU § 322.

[69] SAS No. 55, ''Consideration of Internal Control in a Financial Audit,'' AU § 319.

[70] *See, e.g.,* letter from Perry Adkins, dated December 24, 2002; letter from The Center for Investor Trust, dated January 13, 2003.

[71] *See, e.g.,* letter from James L. Crites, dated December 28, 2002; letter from Cranmore, FitzGerald & Meaney, dated December 27, 2002; letter from America's Community Bankers, dated January 13, 2003; letter from Dixon Odom LLC, dated December 20, 2002.

[72] *See, e.g.,* letter from California Public Employees' Retirement System, dated January 10, 2003; letter from Institute of Internal Auditors, dated January 13, 2003.

[73] *See, e.g.,* letter from Deloitte & Touche, dated January 10, 2003; letter from Ernst & Young LLP, dated January 6, 2003.

[74] *See, e.g.,* letter from Hansen, Barnett & Maxwell, dated January 13, 2003; letter from Deloitte & Touche LLP, dated January 10, 2003; letter from PricewaterhouseCoopers, dated January 8, 2003; letter from American Institute of Certified Public Accountants, dated January 9, 2003.

[75] *See,* AT § 201, ''Agreed-Upon Procedures.''

[76] *See, e.g.,* letter from American Institute of Certified Public Accountants, dated January 9, 2003; letter from Grant Thornton, LLP dated January 13, 2003; letter from Sullivan & Cromwell LLP, dated January 10, 2003; letter from Computer Sciences Corporation, dated January 13, 2003.

that evaluations of and recommendations for improvements in a company's systems or controls does not constitute a management function.

Consistent with our proposal, the final rules prohibit the accountant from acting, temporarily or permanently, as a director, officer, or employee of an audit client, or performing any decision-making, supervisory, or ongoing monitoring function for the audit client.

We believe, however, that services in connection with the assessment of internal accounting and risk management controls, as well as providing recommendations for improvements, do not impair an accountant's independence. Accountants must gain an understanding of their audit clients' systems of internal controls when conducting an audit in accordance with GAAS.[77] With this insight, accountants often become involved in diagnosing, assessing, and recommending to audit committees and management ways in which their audit client's internal controls can be improved or strengthened.[78] The resulting improvements in the audit client's controls not only result in improved financial reporting to investors but also can facilitate the performance of high quality audits. For these reasons, we are continuing to allow accountants to assess the effectiveness of an audit client's internal controls and to recommend improvements in the design and implementation of internal controls and risk management controls.

As discussed in the previous section on financial information systems design and implementation, when an accountant designs and implements its audit client's internal accounting and risk management control systems, some believe that the accountant will lack objectivity if called upon to audit financial statements that are derived, at least in part, from data from those systems or to report on those controls or on management's assessment of those controls. As such, we believe that designing and implementing internal accounting and risk management controls is fundamentally different from obtaining an understanding of the controls and testing the operation of the controls which is an integral part of any audit of the financial statements of a company. Likewise, design and implementation of these controls involves decision-making and, therefore, is different from recommending improvements in the internal accounting and risk management controls of an audit client (which is permissible, if pre-approved by the audit committee).

For example, management could engage a third-party service provider to design and implement an inventory control system. In the course of that engagement, the third-party service provider might ask the accountant to make recommendations on internal control and accounting system components that have been included in the system being designed. Providing such recommendations to the third-party service provider would not place the independent accountant in the role of management.

Because of this fundamental difference, we believe that designing and implementing internal accounting and risk management controls impairs the accountant's independence because it places the accountant in the role of management. Conversely, obtaining an understanding of, assessing effectiveness of, and recommending improvements to the internal accounting and risk management controls is fundamental to the audit process and does not impair the accountant's independence. Furthermore, the accountant may be engaged by the company, subject to the audit committee pre-approval requirements, to conduct an agreed-upon procedures engagement[79] related to the company's internal controls or to provide attest services related to the company's internal controls without impairing his or her independence.

7. Human Resources

Our previous rules deem an accountant to lack independence when performing certain human resources functions, and we did not propose any significant change to those rules. Many commenters[80] agreed that the accountant should be prohibited from providing certain human resources functions for audit clients.

Consistent with our proposal, these rules provide that an accountant's independence is impaired with respect to an audit client when the accountant searches for or seeks out prospective candidates for managerial, executive or director positions; acts as negotiator on the audit client's behalf, such as determining position, status, compensation, fringe benefits, or other conditions of employment; or undertakes reference checks of prospective candidates. Under the rule, an accountant's independence also is impaired when the accountant engages in psychological testing, or other formal testing or evaluation programs, or recommends or advises the audit client to hire a specific candidate for a specific job.

Assisting management in human resource selection or development places the accountant in the position of having an interest in the success of the employees that the accountant has selected, tested, or evaluated. Accordingly, observers may perceive that an accountant would be reluctant to suggest the possibility that those employees failed to perform their jobs appropriately, or at least reasonable investors might perceive the accountant to be reluctant, because doing so would require the accountant to acknowledge shortcomings in its human resource service. The accountant also might have other incentives not to report such employees' ineffectiveness, including that the accountant would identify and be identified with the recruited employees.

8. Broker-Dealer, Investment Adviser or Investment Banking Services

Our previous rules deem an accountant to lack independence when performing brokerage or investment advising services for an audit client.[81] We are adopting rules that add serving as an unregistered broker-dealer[82] to

[77] AU § 319, ''Consideration of Internal Control in a Financial Statement Audit.'' In addition, Section 404(b) of the Act requires a company's audit to attest to the internal control report provided annually by management.

[78] AU § 325, ''Communication of Internal Control Related Matters Noted in an Audit,'' requires the auditor to communicate reportable conditions and material weaknesses in internal control to the company's audit committee or equivalent.

[79] *See,* AT § 201, ''Agreed-Upon Procedures.''

[80] *See, e.g.,* letter from California Public Employees' Retirement System, dated January 10, 2003; letter from Aon Consulting, dated January 13, 2003.

[81] These rules are not meant to change the Commission's previous position that an audit firm's broker-dealer division can cover an industry (including industry surveys and analyses) which includes an audit client when performing analyst functions. However, analysis of a specific audit client's stock places the auditor in the position of acting as an advocate for the client and would cause the auditor to lack independence.

[82] Accountants and the companies that retain them should recognize that the key determination required here is a functional one (*i.e.,* Is the accounting firm or its employee acting as a broker-dealer?). The failure to register as a broker-dealer does not necessarily mean that the accounting firm is not a broker-dealer. In relevant part, the statutory definition of ''broker'' captures persons ''engaged in the business of effecting transactions in securities for the account of others.'' Securities Exchange Act of 1934 3(a)(4). Unregistered persons who provide services related to mergers and acquisitions or other securities-related transactions should limit their activities so they remain outside of that statutory definition. A person may ''effect transactions,'' among other ways, by assisting an issuer to structure prospective securities transactions, by helping an issuer to identify potential purchasers of securities, or by soliciting securities transactions. A person may be ''engaged in the business,'' among

our rules that prohibit serving as a promoter or underwriter, making investment decisions on behalf of the audit client or otherwise having discretionary authority over an audit client's investments, or executing a transaction to buy or sell an audit client's investment, or having custody of assets of the audit client. The rule is substantially the same as the Commission's previous rule related to the provision of these types of services to audit clients. We are including unregistered broker-dealers within the rules because the nature of the threat to independence is unchanged whether the entity is or is not a registered broker-dealer.

Selling—directly or indirectly—an audit client's securities is incompatible with the accountant's responsibility of assuring the public that the company's financial condition is fairly presented. When an accountant, in any capacity, recommends to anyone (including non-audit clients) that they buy or sell the securities of an audit client or an affiliate of the audit client, the accountant has an interest in whether those recommendations were correct. That interest could affect the audit of the client whose securities, or whose affiliate's securities, were recommended. These concepts are echoed in the ''simple principles'' included in the legislative history to the Sarbanes-Oxley Act.[83] In such a situation, if an accountant uncovers an accounting error in a client's financial statements, and the accountant, in an investment adviser capacity, had recommended that client's securities to investment clients, the accountant performing the audit may be reluctant to recommend changes to the client's financial statements if the changes could negatively affect the value of the securities recommended by the accountant to its investment adviser clients.

Broker-dealers[84] often give advice and recommendations on investments and investment strategies. The value of that advice is measured principally by the performance of a customer's securities portfolio. When the customer is an audit client, the accountant has an interest in the value of the audit client's securities portfolio, even as the accountant must determine whether management has properly valued the portfolio as part of an audit. Thus, the accountant would be placed in a position of auditing his or her own work. Furthermore, the accountant is placed in a position of acting as an advocate on behalf of the client.

9. Legal Services

Our previous rule stated that an accountant is deemed to lack independence when he or she provides legal services to an audit client. The proposed rule provided that an accountant was not independent of an audit client if the accountant provides any service to the audit client that, under circumstances in which the service is provided, could be provided only by someone licensed, admitted or otherwise qualified to practice law in the jurisdiction in which the service is provided.

We believe that a lawyer's core professional obligation is to advance clients' interests. Rules of professional conduct in the U.S. require the lawyer to ''represent a client zealously and diligently within the bounds of the law.''[85] The lawyer must ''take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor * * * In the exercise of professional judgment, a lawyer should always act in a manner consistent with the best interests of the client.''[86] We have long maintained that an individual cannot be both a zealous legal advocate for management or the client company, and maintain the objectivity and impartiality that are necessary for an audit.[87] The Supreme Court has agreed with our view. In *United States* v. *Arthur Young,* the Supreme Court emphasized, ''If investors were to view the accountant as an advocate for the corporate client, the value of the audit function itself might well be lost.''[88]

Some commenters[89] believed that the prohibition on legal services should apply to all registrants, regardless of their jurisdiction. Others believed that certain accommodations should be made for foreign jurisdictions[90] or for routine or ministerial duties.[91]

The rules we are adopting are consistent with our proposal. Accordingly, an accountant is prohibited from providing to an audit client any service that, under circumstances in which the service is provided, could be provided only by someone licensed, admitted, or otherwise qualified to practice law in the jurisdiction in which the service is provided.

We recognize that there may be implications for some foreign registrants from this rule. For example, we understand that in some jurisdictions it is mandatory that someone licensed to practice law perform tax work, and that an accounting firm providing such services, therefore, would be deemed to be providing legal services. As a general matter, our rules are not intended to prohibit foreign accounting firms from providing services that an accounting firm in the United States may provide. In determining whether or not a service would impair the accountant's independence solely because the service is labeled a legal service in a foreign jurisdiction, the Commission will consider whether the provision of the service would be prohibited in the United States as well as in the foreign jurisdiction.

Evaluating and determining whether services are permissible may require a comprehensive analysis of the facts and circumstances. We are, however, sensitive to these issues and, as we have done in the past,[92] we encourage accounting firms and foreign regulators to consult with the staff to address these issues.

10. Expert Services

The Sarbanes-Oxley Act includes expert services in the list of non-audit services an accountant is prohibited from performing for an audit client. As

other ways, by receiving transaction-related compensation or by holding itself out as a broker-dealer. Involvement of accounting personnel as unregistered broker-dealers not only can impair auditor independence, but also would violate Section 15(a) of the Exchange Act.

[83] Floor Statement of Senator Sarbanes, 148 Cong. Rec. S7364 (July 25, 2002) ''* * * A public company auditor should not be a promoter of the company's stock or other financial interest (as it would be if it served as broker-dealer, investment adviser, or investment banker for the company).'' To do so places the auditor in a position of serving as an advocate for his or her audit client.

[84] In the past, some have expressed concern that terms such as ''securities professional'' and ''analyst'' are not defined in the securities laws and use of the terms could cause confusion. Because of that concern, we have not used those terms in these rules. We note, however, that broker-dealers provide an array of services that may include certain analyst activities.

[85] *See, e.g.*, D.C. Rules of Professional Conduct, Rule 1.3(a).

[86] *Id.* at Rule 1.5.

[87] In the Matter of Charles Falk, AAER No. 1134 (May 19, 1999) (formally disciplining an attorney/accountant who gave legal advice to an audit client of another partner in his accounting firm).

[88] *United States* v. *Arthur Young,* 465 U.S. 805 (1984) at 819–20 n.15.

[89] *See, e.g.*, letter of Lynn E. Turner, dated January 13, 2003; letter from California Public Employees' Retirement System, dated January 10, 2003.

[90] *See, e.g.*, letter from HSBC, dated January 10, 2003; letter from Institute of Chartered Accountants in England and Wales, dated December 24, 2002; letter from Institut der Wirtschaftsprufer, dated December 27, 2002; letter from Federation des Experts Comptables Europeens, dated January 13, 2003.

[91] *See, e.g.*, letter from KPMG, dated January 9, 2003.

[92] Letter of Lynn Turner, Chief Accountant, SEC, to Commissione Nazionale per le Sonieta e la Borsa re: statutory procedures (August 24, 2000).

discussed earlier, the legislative history related to expert services is focused on the accountant's role when serving in an advocacy capacity.

Some commenters [93] believed that the prohibition on expert services should be limited to instances of public advocacy or public adversarial proceedings and should not extend to situations where the accountant is advising a client or its counsel on technical matters apart from a public proceeding. Other commenters [94] believed a distinction exists between serving as an expert witness and serving as a fact witness in a proceeding. Additionally, many commenters [95] simply raised concerns over the lack of clarity of the term ''expert'' indicating that, as proposed, the meaning of the term is unclear.

Clients retain experts to lend authority to their contentions in various proceedings by virtue of the expert's specialized knowledge and experience. In situations involving advocacy, the provision of expert services by the accountant makes the accountant part of the ''team'' that has been assembled to advance or defend the client's interests.[96] The appearance of advocacy created by providing such expert services is sufficient to deem the accountant's independence impaired. The prohibition on providing ''expert'' services included in this rule covers engagements that are intended to result in the accounting firm's specialized knowledge, experience and expertise being used to support the audit client's positions in various adversarial proceedings.[97]

The rules we are adopting prohibit an accountant from providing expert opinions or other services to an audit client, or a legal representative of an audit client, for the purpose of advocating that audit client's interests in litigation or regulatory, or administrative investigations or proceedings. For example, under this rule an auditor's independence would be impaired if the auditor were engaged to provide forensic accounting services to the audit client's legal representative in connection with the defense of an investigation by the Commission's Division of Enforcement. Additionally, an accountant's independence would be impaired if the audit client's legal counsel, in order to acquire the requisite expertise, engaged the accountant to provide such services in connection with a litigation, proceeding or investigation.[98]

Our rules do not, however, preclude an audit committee or, at its direction, its legal counsel, from engaging the accountant to perform internal investigations or fact finding engagements. These types of engagements may include, among others, forensic or other fact-finding work that results in the issuance of a report to the audit client. The involvement by the accountant in this capacity generally requires performing procedures that are consistent with, but more detailed or more comprehensive than, those required by GAAS. Performing such procedures is consistent with the role of the independent auditor and should improve audit quality. If, subsequent to the completion of such an engagement,[99] a proceeding or investigation is initiated, the accountant may allow its work product to be utilized by the audit client and its legal counsel without impairing the accountant's independence. The accountant, however, may not then provide additional services, but may provide factual accounts or testimony about the work performed.

Accordingly, our rules would not prohibit an accountant from assisting the audit committee [100] in fulfilling its responsibilities to conduct its own investigation of a potential accounting impropriety.[101] For example, if the audit committee is concerned about the accuracy of the inventory accounts at a subsidiary, it may engage the auditor to conduct a thorough inspection and analysis of those accounts, the physical inventory at the subsidiary, and related matters without impairing the auditor's independence.

We recognize that auditors have obligations under Section 10A of the Exchange Act and GAAS [102] to search for fraud that is material to an issuer's financial statements and to make sure the audit committee and others are informed of their findings. Auditors should conduct these procedures whether they become aware of a potential illegal act as a result of audit, review or attestation procedures they have performed or as a result of the audit committee expressing concerns about a part of the company's operations or compliance with the company's financial reporting system. In these situations, we believe that the auditor may conduct the procedures, with the approval of the audit committee, and provide the reports that the auditor deems appropriate. Should litigation arise or an investigation commence during the time period that the auditors are conducting such procedures, we would not deem the completion of these procedures to be prohibited expert services so long as the auditor remains in control of his or her work and that work does not become subject to the direction or influence of legal counsel for the issuer.

Furthermore, under this rule, an accountant's independence will not be deemed to be impaired if, in an investigation or proceeding, an accountant provides factual accounts or testimony describing work it performed. Further, an accountant's independence will not be deemed to be impaired if an accountant explains the positions taken or conclusions reached during the performance of any service provided by the accountant for the audit client.

11. Tax Services

Since the Commission issued its auditor independence proposal, there has been considerable debate regarding whether an accountant's provision of tax services for an audit client can impair the accountant's independence.

[93] *See, e.g.*, letter from Sullivan & Cromwell LLP, letter from Deloitte & Touche LLP, dated January 10, 2003; letter from American Institute of Certified Public Accountants, dated January 9, 2003; letter from Federation des Experts Comptables Europeens, dated January 13, 2003.

[94] *See, e.g.*, letter from Sullivan & Cromwell LLP, dated January 10, 2003; letter from California Public Employees' Retirement System, dated January 10, 2003; letter from Grant Thornton LLP, dated January 13, 2003; letter from American Academy of Actuaries, dated January 6, 2003.

[95] *See, e.g.*, letter from Eli Lily and Co., dated January 9, 2003; letter from Federation des Experts Comptables Europeens, dated January 13, 2003; letter from PG&E Corporation, dated January 10, 2003; letter from America's Community Bankers, dated January 13, 2003.

[96] The accountant becomes an advocate under such circumstances even if the accountant is working behind the scenes to advance the client's interests.

[97] As we discussed in our proposing release, virtually all services provided by an accountant may be perceived to be expert services. This prohibition, however, only applies to those services that involve advocacy in proceedings and investigations (as discussed in this section of the release) and does not apply to other permitted non-audit services, such as tax services.

[98] For purposes of this release, an investigation is an inquiry by a regulatory body, including by its staff.

[99] *See, infra,* discussion stating that if litigation arises or an investigation commences during the auditor's performance of such procedures, completion of the procedures is not prohibited provided the auditor remains in control of his or her work and that work does not become subject to the direction or influence of legal counsel for the issuer.

[100] For example, Section 301 of the Act stipulates that each audit committee shall have the authority to engage independent counsel and other advisers, as it determines necessary to carry out its duties.

[101] An auditor's independence would, however, be impaired if its assistance to the audit committee included defending, or helping to defend, the audit committee or the company generally in a shareholder class action or derivative lawsuit, other than as a fact witness.

[102] *See,* SAS No. 99, ''Consideration of Fraud in a Financial Statement Audit,'' AU § 316.

Tax services are unique among non-audit services for a variety of reasons. Detailed tax laws must be consistently applied, and the Internal Revenue Service has discretion to audit any tax return. Additionally, accounting firms have historically provided a broad range of tax services to their audit clients.[103]

In the proposing release, we suggested that in determining whether a given tax service should be allowed, the audit committee should be mindful of the three basic principles. In response, some commenters[104] indicated that asking audit committees to evaluate the provision of tax services by the accountant in light of the three basic principles would significantly alter the Commission's historic position related to tax services. Other commenters raised significant clarity and certainty issues. Some commenters[105] that urged clarity would, for example, prohibit accountants from providing any tax services to audit clients. Other commenters[106] believed that accountants should be permitted to provide only certain types of tax services to their audit clients.[107] Some commenters[108] believed that allowing the accountant to perform tax services both enhances the quality of the audit and provides greater independent oversight over the provision of tax services than would occur if a non-audit firm were engaged to provide these services. Additionally, one commenter's research suggests that higher levels of tax services fees are associated with substantially lower instances of financial restatements.[109]

The Commission reiterates its long-standing position that an accounting firm can provide tax services to its audit clients without impairing the firm's independence. Accordingly, accountants may continue to provide tax services such as tax compliance, tax planning, and tax advice to audit clients, subject to the normal audit committee pre-approval requirements under 2–01(c)(7). Additionally, the rules we are adopting require registrants to disclose the amount of fees paid to the accounting firm for tax services. The rules are consistent with the Act which states that:

> A registered public accounting firm may engage in any non-audit service, *including tax services*, that is not described in any of paragraphs (1) through (9) of subsection (g) for an audit client, only if the activity is approved in advance by the audit committee of the issuer.[110] (Emphasis added)

Nonetheless, merely labeling a service as a ''tax service'' will not necessarily eliminate its potential to impair independence under Rule 2–01(b).[111] Audit committees and accountants should understand that providing certain tax services to an audit client would, as described below, or could, in certain circumstances, impair the independence of the accountant. Specifically, accountants would impair their independence by representing an audit client before a tax court, district court, or federal court of claims. In addition, audit committees also should scrutinize carefully the retention of an accountant in a transaction initially recommended by the accountant, the sole business purpose of which may be tax avoidance and the tax treatment of which may be not supported in the Internal Revenue Code and related regulations.[112]

C. Partner Rotation

For 25 years, partner rotation has been a component of quality control processes for a vast majority of the accounting firms that audit SEC registrants.[113] The judgment about who should be subject to rotation and how long the partner(s) should remain on the engagement prior to rotating involves balancing the need to bring a ''fresh look'' to the audit engagement with the need to maintain continuity and audit quality.

The Sarbanes-Oxley Act requires rotation of certain audit partners on a five-year basis in order to continue to provide audit services for a registrant. Section 203 of the Sarbanes-Oxley Act of 2002 specifies that:

> It shall be unlawful for a registered public accounting firm to provide audit services to an issuer if the lead (or coordinating) audit partner (having primary responsibility for the audit), or the audit partner responsible for reviewing the audit, has performed audit services for that issuer in each of the 5 previous fiscal years of that issuer.

Section 301 of the Sarbanes-Oxley Act specifies that the Commission is to direct the national securities exchanges and associations to adopt company listing standards stating that the company's audit committee has the responsibility for appointment, compensation, and oversight of the work of the company's audit firm.[114] In that capacity, the audit committee has the responsibility for evaluating and determining that the audit engagement team has the competence necessary to conduct the audit engagement in accordance with GAAS. Additionally, the accountant is required to conduct the audit in accordance with GAAS.[115]

---

[103] The provision of tax services by accountants to their audit clients existed and continued without change when Congress formulated the securities laws in the 1930s. The Sarbanes-Oxley Act also recognized that accountants may engage in certain non-audit services ''including tax services * * * only if the activity is approved in advance by the audit committee.''

[104] Some commenters (*see, e.g.*, letter from Ernst & Young, dated January 6, 2003; letter from Deloitte & Touche, dated January 10, 2003; letter from KPMG, dated January 9, 2003; letter from the Chamber of Commerce of the United States of America, dated January 9, 2003; letter from SafeCo Corporation, dated January 7, 2003; letter from Pfizer, dated January 13, 2003; letter from The Business Roundtable, dated January 14, 2003) believe that asking audit committees to evaluate tax services in light of the three principles in its pre-approval process creates an unnecessary degree of uncertainty in the marketplace.

[105] *See, e.g.*, letter from Norman Marks, dated December 9, 2002; letter from Harbor View Partners, dated December 4, 2002; letter from Douglas Estes, dated November 30, 2002; letter from William Fraser, dated November 26, 2002; letter from M.E. Saunders, dated November 26, 2002.

[106] *See, e.g.*, letter from Robert T. Bossart, dated January 2, 2003; letter from FedEx Corporation, dated December 31, 2002; letter from the American Bar Association Section of Taxation, dated January 6, 2003; letter from California Public Employees' Retirement System, dated January 10, 2003.

[107] Commenters identified a variety of tax services they believe should be prohibited. However, there was no ''consensus'' view on what tax services should be prohibited.

[108] *See, e.g.*, letter from Philip A. Laskawy, dated January 2, 2003; letter from FedEx Corporation, dated December 31, 2002; letter from The Business Roundtable, dated January 14, 2003.

[109] *See,* comment letter of William Kinney, University of Texas, Zoe-Vonna Palmrose, University of Southern California, and Susan Scholz, University of Kansas.

[110] Sarbanes-Oxley Act of 2002, Section 201.

[111] It would not be appropriate to provide a prohibited service, label it a ''tax service,'' and argue that it is, therefore, permissible. For example, an accountant seeking to provide a broker-dealer service and arguing that, because there are tax implications of certain brokerage activities, the service is permissible would constitute an attempt to improperly circumvent the list of prohibited services. *See*, letter of Ernst & Young dated January 6, 2003 (p. 16).

[112] The Commission on Public Trust and Private Enterprise recently concluded as a ''best practice'' that an accounting firm should not be providing ''novel and debatable tax strategies and products that involve income tax shelters and extensive off-shore partnerships or affiliates'' to audit clients. *See* The Conference Board Commission on Public Trust and Private Enterprise, *Findings and Recommendations*, January 9, 2003, p. 37.

[113] American Institute of Certified Public Accountants (AICPA), *Division for CPA Firms SEC Practice Section Peer Review Manual*, 1978.

[114] *See*, Release No. 33–8173 (Jan 8, 2003).

[115] In addition to the audit, registrants are required to have their quarterly financial information subjected to a timely review by the accounting firm. Such review is typically conducted according to the provisions required by GAAS—*see*, AU § 722. Furthermore, Section 404 of the Sarbanes-Oxley Act, as well as the Commission's proposed rules—*see*, Release No. 33–8138, Oct. 22, 2002, (67 FR 66208)—would require the accounting firm to attest to management's report on the registrant's internal controls. Both a timely review engagement and an attestation engagement require the accounting firm to be independent with respect to the registrant. Accordingly, the Commission's rules for partner rotation extend to partners who serve on the engagement team that conducts the timely review of the registrant's

Continued

In particular, the third general standard requires that the accountant exercise due professional care in the conduct of the audit.[116] In order to exercise due professional care, it is necessary to ensure that the engagement is properly staffed with individuals competent to understand the unique issues relevant to that audit. Additionally, the accounting profession's quality control standards require that the firm have processes in place to ensure that appropriate personnel are assigned to each audit engagement.[117]

In our proposing release, we proposed that all partners on the audit engagement team, with the exception of certain ''technical services'' or ''national office'' partners and those serving on significant subsidiaries as defined in 1–02(w) of Regulation S–X, be subject to rotation after five years and that after rotation, they would be subject to a five year time-out before they could return to that engagement. Furthermore, the proposed rules would have applied the partner rotation requirements at the audit client [118] level.

Some commenters [119] have suggested that the fresh look can only be accomplished by requiring mandatory rotation of audit firms. In contrast, others [120] expressed the concern that the loss of continuity and audit competence created by mandatory firm rotation creates an even greater risk to audit quality. The issue of mandatory audit firm rotation as an effective means of safeguarding auditor independence has been debated for many years. Several different groups, including appointed commissions, professional organizations, and academics, have researched and analyzed the issue of audit firm rotation.[121] The results of those efforts have raised many of the same concerns as our commenters which the Commission considered in this rule-making. This issue will continue to be monitored by the Commission and others. As directed by Section 207 of the Sarbanes-Oxley Act, the issue of mandatory firm rotation is a matter requiring further study.[122]

1. Rotation of the Lead and Concurring Partner

Under the current requirements of the profession, the balance between the need for a fresh look with concerns about loss of continuity and competence is accomplished by requiring the lead partner to rotate off the audit engagement of SEC registrants after seven years with a two year time out period.[123] However, some commenters [124] believed that extending the partner rotation requirements to other audit partners would be a better balance of the need for a fresh look with concerns about continuity and competence.

These commenters' views are consistent with the provisions of the Sarbanes-Oxley Act, which clearly specify that, at a minimum, two partners be subject to rotation: the lead audit partner and the concurring partner. Furthermore, the Act specifies a five-year period prior to rotation rather than the current seven-year period specified in the membership requirements of the SECPS.[125] While the Act specified that these two partners were subject to rotation after five years, the Act is silent with regard to the time out period. One approach to the partner rotation rules could have been to preclude the partner from returning to the audit client after he or she rotates off to that engagement. Many commenters,[126] however, believed that the time out should be shorter than in our proposal. Other commenters [127] did not object to or even agreed with the five-year time out period for the lead and concurring partners.

The Commission is adopting rules to require the lead and concurring partners to rotate after five years and, upon rotation, be subject to a five-year ''time out'' period. Because of the importance of achieving a fresh look to the independence of the audit function, we believe that a five-year time out period is appropriate for these two partners.

2. Additional Partner Rotation

Clearly, the lead partner and the concurring partner perform critical functions that affect the conduct and effectiveness of the engagement. However, in many larger engagements, the engagement team will include more than just the lead partner and the concurring partner. Often, those other partners on the engagement team play a significant role in the conduct of the audit and maintaining ongoing relationships with the audit client.

Our proposal would have applied the same rotation requirements to all partners on the audit engagement team with the exception of certain ''national office'' technical partners and those who did not work on significant subsidiaries as defined in Rule 1–02(w) of Regulation S–X. Some commenters [128] believed that the rotation requirements should be at or extend beyond our proposal level to include, for example, ''national office'' or ''technical'' partners [129] or other audit engagement team members below the level of

interim financial information as well as the engagement team that conducts the attest engagement on management's report on the registrant's internal controls.

[116] *See*, AU § 150.02.

[117] *See*, QC § 20.13.

[118] As defined in Rule 2–01(f).

[119] *See, e.g.*, letter from Jason Zahner, dated December 23, 2002; letter from Hugh Higgins, dated November 20, 2002.

[120] *See, e.g.,* letter from American Institute of Certified Public Accountants, dated January 9, 2003.

[121] *See*, The Commission on Auditors' Responsibilities, ''Report, Conclusions, and Recommendations,'' 1978, p. 109; Report of the National Commission on Fraudulent Financial Reporting, 1987, p. 54; research commissioned by the Committee of Sponsoring Organizations of the Treadway Commission, ''Report of the National Commission on Fraudulent Financial Reporting,'' 1987, p. 113; Committee of Sponsoring Organizations of the Treadway Commission, ''Fraudulent Financial Reporting: 1987–1997 An Analysis of U.S. Public Companies,'' 1999, p. 28; United States General Accounting Office, Report to the Ranking Minority Member, Committee on Commerce, House of Representatives, ''The Accounting Profession, Major Issues: Progress and Concerns,'' 1996, p. 56; Arrunada, Benito, ''Mandatory Rotation of Company Auditors: A Critical Examination,'' *International Review of Law And Economics*, March 1997; St. Pierre, K. and J. Anderson, ''An Analysis of Factors Associated with Lawsuits Against Public Accountants,'' *Accounting Review* (1984), p. 256; and Dallocchio, M. and A. Vigaìo''The Impact Of Mandatory Audit Rotation On Audit Quality And On Audit Pricing: The Case Of Italy,'' SDA Universita Bocconi, 2003.

[122] Section 207 of the Act directs the Comptroller General of the United States to conduct a study and review of the potential effects of mandatory rotation of firms.

[123] AICPA, SEC Practice Section, Requirements of Members, at item e. The membership requirements are available online at *www.aicpa.org/members/div/secps/require.htm.* Audit firms which are members of the SEC Practice Section must comply with its rules (*e.g.*, partner rotation) and undergo periodic peer review to ensure that the firms' audit practice is consistent with both the rules of the AICPA and those of the Commission.

[124] *See, e.g.*, letter from California Public Employees' Retirement System, dated January 10, 2003; letter from Denzil Dias, dated December 11, 2002; letter from HSBC, dated January 11, 2003.

[125] While the current lead partner rotation requirements specify a seven-year period prior to rotation, the original rotation requirements developed by the SECPS specified a five-year rotation period. *See,* AICPA, *Division for CPA Firms SEC Practice Section Peer Review Manual*, 1978, p.1–5.

[126] *See, e.g.*, letter from The Putnam Funds, not dated; letter from Commercial Federal Bank, dated January 13, 2003; letter from Dixon Odom, dated December 20, 2002; letter from American Institute of Certified Public Accountants, dated January 9, 2003.

[127] *See, e.g.*, letter from Aetna, Inc., dated January 13, 2003; letter from Royal Philips Electronics, dated January 9, 2003; letter from Lynn Turner, dated January 13, 2003; letter from Medtronic, Inc., dated January 13, 2003.

[128] *See, e.g.*, letter from Denzil Dias, dated December 11, 2002.

[129] *See, e.g.*, letter from California Public Employees' Retirement System dated January 10, 2003.

partner.[130] Other commenters, [131] however, believed that extending the rotation requirements beyond the two partners named in the Act could potentially harm audit quality and could impose additional costs on registrants. For example, one commenter [132] indicated that the proposed rotation requirements would cause the firm to have to rotate 181 partners in 88 countries for one large multi-national client. Another commenter [133] estimated that more than 250 partners in 80 countries would be subject to the rotation requirements under the proposed rules. Additionally, some commenters stated that the additional costs that accounting firms would incur to rotate and, in many cases, relocate audit partners would have to be passed on to registrants.

While other commenters [134] agreed with the concept of extending the partner rotation requirements beyond the two partners named in the Act, they suggested that the final rules should not apply as broadly as the Commission had proposed. One commenter suggested that assessing the ''right cut'' in identifying partners for rotation was a balance between the responsibility for final decisions on accounting and financial reporting issues affecting the financial statements and the level of the relationship with management.[135]

Commenters [136] noted that applying the rotation requirements too deeply could threaten the quality of the audit in certain situations. For example, in certain countries there may be a limited pool of audit partners who are familiar with U.S. GAAP and GAAS. In certain ''specialty'' areas, there may be a limited number of ''specialty'' partners available to service the client.[137] In certain industries there may be limited industry expertise. Also, by applying the rotation requirements more deeply, firms might have a difficult time grooming another partner to both have sufficient knowledge of the industry and the client and have sufficient time remaining prior to rotation when the lead partner or concurring partner must rotate. Also, some commenters [138] noted that applying the proposed rotation requirements to specialty partners could impact audit quality.

We believe that the partner rotation requirements must strike a balance between the need to achieve a fresh look on the engagement and a need for the audit engagement team to be composed of competent accountants. We believe that a proper balance is one that weighs the responsibility for decisions on accounting and financial reporting issues impacting the financial statements with the level of the relationship with senior management of the client. Such a balancing clearly would include the lead (high on both dimensions) and concurring partners (high on responsibility for final decisions, somewhat lower on level of relationship with management). In addition to that, the lead partner at significant operating units has a high involvement with senior management and, for significant operations, responsibility for decisions on accounting matters that affect the financial statements. Likewise, other audit partners at the parent or issuer have a high involvement with senior management and some responsibility for accounting matters to be included in the financial statements.

In contrast, partners at smaller operating units and ''specialty'' partners typically have a low level of involvement with senior management and the responsibility for the overall presentation in the financial statements is relatively low.

Nonetheless, the Commission is sensitive to the impact that its proposed rotation requirements would have on audit competence in certain instances as well as costs to registrants. Consistent with this approach, we believe that the proper balance is achieved by extending the partner rotation requirements beyond the lead and concurring partner but less deeply than we proposed. In response to the concerns of commenters that our proposed rules went too deep, thus imposing significant costs on registrants and accountants as well as creating potential concerns of audit quality, the rules we are adopting will subject a smaller number of partners to the rotation requirement. Accordingly, we are adopting rules that apply the partner rotation requirements to ''audit partners'' which is a new term defined in these rules.

In addition to the lead and concurring partners, ''audit partners'' include partners on the audit engagement team who have responsibility for decision-making on significant auditing, accounting, and reporting matters that affect the financial statements or who maintain regular contact with management and the audit committee. In particular, audit partners would include all those who serve the client at the issuer or parent level, other than specialty partners. Further, the lead partner on subsidiaries of the issuer whose assets or revenues constitute 20% or more of the consolidated assets or revenues are included within the definition of ''audit partner.''

Thus, the term audit partner does not extend to all partners on the audit engagement team. For example, partners serving on subsidiaries which constitute less than 20% of the assets and revenues of the issuer would not be audit partners as we have defined that term and, thus, would not be subject to rotation. Likewise, partners on subsidiaries above the 20% threshold, other than the lead partner on those subsidiaries, are not subject to rotation.[139]

Audit partners also would exclude ''specialty'' partners because they typically do not have significant interaction with management on an ongoing basis regarding significant audit, accounting, and reporting matters. It is the lead partner (who is subject to rotation) who has the ultimate responsibility for the audit. We believe that this addresses the concern that many commenters expressed regarding certain ''specialty'' partners.

We believe that defining the term ''audit partners'' as the basis for defining those partners who are subject to the rotation requirements is responsive to the concerns expressed by some commenters of the problems that would be created by applying the

[130] *See, e.g.*, letter from Lynn E. Turner dated January 13, 2003.

[131] *See, e.g.*, letter from Aramark Corporation, dated December 26, 2002; letter from Aetna, Inc., dated January 13, 2003; letter from PricewaterhouseCoopers, dated January 8, 2003; letter from Mellon Financial Corporation, dated January 10, 2003; letter from SAP AG, undated; letter from Chamber of Commerce of the United States of America, dated January 9, 2003; letter from The Business Roundtable, dated January 14, 2003.

[132] *See*, letter from PricewaterhouseCoopers dated January 8, 2003.

[133] *See*, letter from HSBC dated January 10, 2003.

[134] *See, e.g.*, letter from Ernst & Young LLP, dated January 6, 2003; letter from Robert G. Beard, undated; letter from Institute of Chartered Accountants in England and Wales, dated January 10, 2003.

[135] *See*, letter from Deloitte & Touche LLP, dated January 10, 2003.

[136] *See, e.g.*, letter from The Business Roundtable, dated January 14, 2003; PricewaterhouseCoopers, dated January 8, 2003; letter from KPMG, dated January 9, 2003; letter from Philip A. Laskawy, dated January 9, 2003; letter from Pfizer, dated January 13, 2003; letter from Aetna, Inc., dated January 13, 2003.

[137] Specialty partners are, among others, those partners who consult with others on the audit engagement team during the audit, review or attestation engagement regarding technical or industry-specific issues. For example, such partners would include tax specialist and valuation specialist.

[138] *See, e.g.*, letter from Ernst & Young LLP, dated January 6, 2003; letter from Deloitte & Touche, dated January 10, 2003.

[139] A threshold of 20% often has been used in the accounting literature as a basis for ''significance'' tests. *See, e.g.*, APB Opinion No. 18, ''The Equity Method of Accounting for Investments in Common Stock,'' and ARB No. 43, Chapter 7, ''Capital Accounts.''

rotation requirements deeper in the firm. Accordingly, we believe that this requirement establishes an appropriate balance between the need for a fresh look with the difficulties encountered in certain locations where the pool of available talent is limited.

In many cases, registrants have complex business transactions and other situations which may require that the engagement team consult with the accounting firm's national office or others on technical issues. Consistent with our proposal, partners assigned to ''national office'' duties (which can include technical accounting and auditing—whether at a local or national level—as well as centralized quality control functions) who may be consulted on specific accounting issues related to a client are not audit partners even though they may periodically consult on client matters.[140] While these partners play an important role in the audit process, they serve, primarily, as a technical resource for members of the audit team. Because these partners are not involved in the audit *per se* and do not routinely interact or develop relationships with the audit client, we do not believe that it is necessary to rotate the involvement of these personnel.

3. Rotation Period for Partners Other Than the Lead and Concurring Partners

Some commenters[141] believed that a different rotation period should be provided to partners other than the lead and concurring partners. In particular, if other partners subject to the rotation requirements had a longer period before they were required to rotate, firms would be better able to establish appropriate transition plans from one lead or concurring partner to the next. The longer rotation period for the other partners would allow them to spend time on the engagement team to learn about the business and the industry before having the ultimate responsibility for the engagement.

In response to these concerns, the rules we are adopting require partners subject to the rotation requirements, other than the lead and concurring partner, to rotate after no more than seven years and to be subject to a two-year time-out. In this way, a partner could serve either as the lead partner on a significant subsidiary or as an ''audit partner'' at the parent or issuer level for a period of time (*e.g.*, two years) prior to becoming the lead or concurring partner on the engagement and still be able to serve in that lead or concurring role for five years.[142]

In conducting its oversight review of registered public accounting firms, we expect that the Public Company Accounting Oversight Board (''the Board'') will monitor the impact of these rules on audit quality and independence.

4. Small Business/Small Firm Considerations

Many commenters[143] stated that if the rotation requirements were applied to smaller firms, many smaller firms would be unable to provide audit services to their public clients and would be forced to give up their public clients. Many commenters[144] suggested that this would result in those clients incurring greater costs such as from having to identify a new accounting firm, from the need to familiarize accountants with the client firm's industry and business practices and from the resulting reduction in competition among firms.[145] As we noted in the proposal, we are sensitive to the impact of our rules on smaller business and smaller firms.

Commenters[146] made a number of suggestions about how to accommodate the needs of smaller issuers and smaller firms including: (1) Exempting the firms based on criteria such as number of partners, number of SEC clients, firm revenue, or number of professional personnel and (2) exempting accountants of smaller issuers as measured by revenue, assets, market capitalization, or profitability.

The existing professional standards on partner rotation contain an exemption for firms with fewer than five audit clients and fewer than ten partners.[147] We recognize the need to consider the impact of our rules on smaller businesses and smaller firms. While we believe it is appropriate to codify that exemption, we remain concerned about the quality of audits of all registrants. Accordingly, in order for audit firms with fewer than five audit clients that are issuers[148] and fewer than ten partners to qualify for the exemption from partner rotation, the Board must conduct a review of all of the firm's engagements subject to the rule at least once every three years. This special review should focus on the overall quality of the audit and, in particular, the independence and competence of the key personnel on the audit engagement teams.

5. Investment Companies

Under the proposed rule, a partner performing audit, review, or attestation services for any entity in the investment company complex could only do so if they had not served five consecutive years on any entity in the same investment company complex. The rotation requirement would have extended not only to the audit partners, but also those specialized partners, such as tax partners, that work on significant aspects of the audit. Those partners affected by the rotation requirement would have had to remain completely off any engagements in the investment company complex for a period of five years before they could again audit the investment company.

Commenters[149] raised significant concerns in the application of the proposed rule to investment companies. Two commenters[150] were concerned with the prohibition of partners who had served five consecutive years at a service provider or other non-investment company entity in the

[140] 17 CFR 210.2–01(f)(7).

[141] *See, e.g.*, letter from Ernst & Young, dated January 6, 2003; letter from Deloitte & Touche, dated January 10, 2003; letter from KPMG, dated January 9, 2003; letter from Dixon Odom, dated December 20, 2002; letter from The Business Roundtable, dated January 14, 2003.

[142] An audit partner who starts in a position other than the lead or concurring partner and subsequently moves to the lead or concurring partner cannot serve the client in an audit partner capacity for more than seven consecutive years. For example, a person serving as the lead partner on a significant subsidiary for a period of four years who then becomes the lead partner on the issuer would be able to serve in that capacity for three additional years before reaching a total of seven years as an audit partner on that client.

[143] *See, e.g.*, letter from Piercy, Bowler, Taylor & Kern, dated January 7, 2003; letter from Witt, Mares & Company PLC, dated January 11, 2003; letter from Burton, McCumber & Cortez LLP, dated January 2, 2003; letter from American Institute of Certified Public Accountants, dated January 9, 2003; letter from Spence, Marston, Bunch, Morris & Co., dated January 13, 2003; letter from The Business Roundtable, dated January 14, 2003.

[144] *See, e.g.*, letter from Weaver & Martin LLC, dated December 31, 2002; letter from CPA Associates, dated January 3, 2003; letter from Symonds, Evans & Company PC, dated December 19, 2002.

[145] *See, e.g.*, letter from U.S. Small Business Administration's Office of Advocacy, January 13, 2003. We note that the GAO also is conducting a study on the consolidation in the accounting industry as directed by Section 701 of the Sarbanes-Oxley Act.

[146] *See, e.g.*, letter from Castaing, Hussey & Lolan LLC, dated January 10, 2003; letter from Piercy, Bowler, Taylor & Kern, dated January 7, 2003; letter from Trice, Geary & Myers LLC, dated January 13, 2003; letter from Smith, Carney & Co., dated January 7, 2003; letter from Cranmore, FitzGerald & Meaney, dated December 27, 2002.

[147] AICPA, SEC Practice Section, Requirements of Members, at item e.

[148] As defined in section 10A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(f)).

[149] *See, e.g.*, letter from Deloitte & Touche, dated January 10, 2003; letter from Putnam Mutual Funds, not dated; letter from The Vanguard Group, dated January 13, 2003; letter from PricewaterhouseCoopers, dated January 8, 2003.

[150] *See*, letter from PricewaterhouseCoopers, dated January 8, 2003; letter from Investment Company Institute, dated January 13, 2003.

investment company complex from serving on the audit of a registered investment company in the same investment company complex without first observing the five year ''time out'' period.[151] One commenter[152] was concerned with the prohibition against partners who had served five consecutive years at an unregistered fund from serving on the audit of a registered investment company in the same investment company complex without first observing the five year ''time out'' period. One commenter[153] emphasized the financial reporting personnel and accounting control systems used by investment companies are different from those used for other entities in the investment company complex. As a result, the rotation of an audit partner from a non-registered investment company entity in the investment company complex to a registered investment company would provide a ''fresh look'' at the accounting control systems and the financial reporting process. In addition, due to the structure of the investment company complex organizations, the rotated partner typically would not be dealing with the same individuals in management or on the audit committee that they might have dealt with previously as the audit partner on an entity in the investment company complex.

We believe that the rotation requirements with regard to investment companies should prohibit the rotation of partners between different investment companies in the same investment company complex. We do not believe, however, that it is necessary for the rule to prohibit accountants from rotating to other entities in the investment company complex. Consequently, the rule, as adopted, will not allow audit partners to satisfy the partner rotation requirements by rotating between investment companies in the same investment company complex. The individual required to rotate and the applicable periods for rotation and ''time-out'' from the audit client will be applied in the same manner to investment companies as to other issuers. Lead and concurring partners will be required to rotate after a total of five consecutive years in either role. At a minimum, all audit partners that audit investment companies will be required to rotate after a total of seven years of consecutive service on any of the investment companies in the same investment company complex. Lead and concurring partners will be required to observe a ''time out'' period for five years before returning to the investment company and all other audit partners will be subject to a two year ''time out'' period.

The unique structure of investment company complexes allows for many different fiscal year-ends within the same investment company complex. In order to allow a partner to serve the total number of allowable periods on any one investment company audit in the complex, while still requiring partners to rotate off an investment company complex at the end of their specific periods, we have defined consecutive years of service for investment companies. A consecutive year of service for audit partners includes all fiscal year-end audits of investment companies in the same investment company complex that are performed in a continuous 12-month period. This would allow audit partners auditing multiple investment companies in the same investment company complex to audit each investment company for five or seven complete fiscal years, as appropriate.

6. Effective Date and Transition

In order to allow firms to establish an orderly transition of their audit engagement teams, the Commission is establishing transition provisions related to the partner rotation requirements. Since the lead partner was previously subject to rotation requirements, these rotation requirements should not impose a significant incremental burden on accounting firms. Accordingly, the rotation requirements applicable to the lead partner are effective for the first fiscal year ending after the effective date of these rules. Furthermore, in determining when the lead partner must rotate, time served in the capacity of lead partner prior to the effective date of these rules is included. For example, for a lead partner serving a calendar year audit client, if 2003 was that partner's fifth, sixth or seventh year as lead partner for that audit client, he or she would be able to complete the current year's audit and he or she must rotate off for the 2004 engagement.

The other partners subject to these rotation requirements were not previously subject to rotation. Accordingly, we believe that some additional transition is needed for these partners. In order to maintain continuity on the engagement, firms will need to stagger the rotation of partners. This is especially critical for the lead and concurring partners. As a consequence, to facilitate the process of staggering the rotation of the lead and concurring partners, the rotation requirements for the concurring partner are effective as of the end of the second fiscal year after the effective date of the rules. Therefore, a concurring partner for a calendar year audit client for which 2003 was his or her fourth or greater year in that role,[154] he or she would be able to serve in that capacity for the 2004 audit before being subject to rotation.

Since the other partners covered by these rules were neither identified in the Act nor previously subject to rotation requirements, we believe, consistent with many commenters, that a longer transition period is warranted. Accordingly, for other partners, the rules are effective as of the beginning of the first fiscal year after the effective date of these rules. However, in determining the time served, that first fiscal year will constitute the first year of service for such partners. For example, for a lead partner on a significant subsidiary with a calendar year reporting period, 2004 would constitute the first year in the seven year rotation period, regardless of how many years he or she had previously served in that capacity.

Finally, we recognize that in many foreign jurisdictions partners previously were not subject to rotation requirements. Accordingly, for all partners with foreign accounting firms who are subject to rotation requirements, the rules are effective as of the beginning of the first fiscal year after the effective date of these rules. Likewise, in determining the time served, that first fiscal year will

[151] Commenters also were concerned with the availability of competent audit, tax and other specialized partners to effectively rotate between the investment company audits. One commenter indicated tax partners typically served a far greater number of investment company audit clients per partner than their counterparts in the other industry practices (*see*, letter from Investment Company Institute, dated January 13, 2003). Commenters were concerned that lack of depth in this industry would ultimately reduce audit quality and harm investors (*see, e.g.*, letter from Putnam Mutual Funds, not dated). Commenters also were concerned with the depth of audit resources in certain markets (*see, e.g.*, letter from Oppenheimer Funds, Inc., dated January 13, 2003). One commenter indicated the proposed rule would effectively bar them from performing audits of investment companies (*see,* letter from McCurdy & Associates, CPAs, Inc., dated December 12, 2002). We have addressed these concerns by the changes to the partner rotation requirements that impact all issuers in addition to registered investment companies.

[152] *See*, letter from PricewaterhouseCoopers, dated January 8, 2003.

[153] *See*, letter from PricewaterhouseCoopers, dated January 8, 2003. *See, also*, letter from Investment Company Institute, dated January 6, 2003.

[154] Since concurring partners were not previously subject to rotation requirements, it is quite likely that many partners will have served in significantly more than five years in that capacity at the time of transition.

constitute the first year of service for such partners. Thus, for a partner from a foreign firm who is serving as the lead partner for an issuer with a calendar year, 2004 would constitute the first year of the five year rotation period for that partner, without regard to the number of years he or she had previously served in that capacity.

D. Audit Committee Administration of the Engagement

Historically, management has retained the accounting firm, negotiated the audit fee, and contracted with the accounting firm for other services. Our proposed rules, however, recognized the critical role that audit committees can play in the financial reporting process and in helping accountants maintain their independence from audit clients. An effective audit committee may enhance the accountant's independence by, among other things, providing a forum apart from management where the accountants may discuss their concerns. It may facilitate communications among the board of directors, management, internal auditors and independent accountants. An audit committee also may enhance auditor independence from management by appointing, compensating and overseeing the work of the independent accountants.

In that light, Section 202 of the Sarbanes-Oxley Act requires that audit committees pre-approve the services—both audit and permitted non-audit—of the accounting firm.

Specifically, our proposed rules would have required the audit committee to approve the engagement of the independent accountant to audit the issuer and its subsidiary's financial statements and have ongoing communications with the accountant. The proposals also would have required that the audit committee pre-approve all permissible non-audit services and all audit, review or attest engagements required under the securities laws either:

- before the accountant is engaged by the audit client to provide services other than audit, review or attest services, the audit client's audit committee expressly approve the particular engagement; or
- any such engagement be entered into pursuant to detailed pre-approval policies and procedures established by the audit committee and the audit committee be informed on a timely basis of each service.

Finally, consistent with the provisions of the Act, under our proposals, audit committees could apply a *de minimis* exception to the pre-approval requirements in certain circumstances.

Some commenters [155] believed that the pre-approval alternatives stated above, coupled with the disclosure of fees based on the pre-approval practices conveyed an impression that one method of pre-approval was preferable. Other commenters [156] stated that it was uncertain whether audit committees could use policies and procedures as the basis for pre-approving audit services.

The rules we are adopting are intended to clarify that, to the extent permitted by the Sarbanes-Oxley Act,[157] the audit committee may pre-approve audit and non-audit services based on policies and procedures and that explicit approval and approval based on policies and procedures are equally acceptable. As discussed later in this release, we have revised the proposed disclosures to match our conclusions about pre-approval processes.

Accordingly, the final rules require that the audit committee pre-approve all permissible non-audit services and all audit, review or attest engagements required under the securities laws. The rules require that before the accountant is engaged by the issuer or its subsidiaries, or the registered investment company or its subsidiaries, to render the service, the engagement is:

- approved by the issuer's or registered investment company's audit committee; or
- entered into pursuant to pre-approval policies and procedures established by the audit committee of the issuer or registered investment company, provided the policies and procedures are detailed as to the particular service, the audit committee is informed of each service, and such policies and procedures do not include delegation of the audit committee's responsibilities to management.

As provided in the Sarbanes-Oxley Act, the rules recognize audit services to be broader than those services required to perform an audit pursuant to GAAS. For example, the Act identifies services related to the issuance of comfort letters and services related to statutory audits required for insurance companies for purposes of state law as audit services.[158] We recognize that domestically and internationally there are various requirements for statutory audits. These rules recognize this fact; accordingly, such engagements are viewed as audit services in the context of these rules.

Furthermore, audit services also would include services performed to fulfill the accountant's responsibility under GAAS. For example, in some situations, a tax partner may be involved in reviewing the tax accrual that appears in the company's financial statements. Since that is a necessary part of the audit process, that activity constitutes an audit service. Likewise, complex accounting issues may require that the firm engage in consultation with ''national office'' or other technical reviewers to reach an audit judgment. Whether or not the firm separately charges for that consultation, the activity constitutes an audit service since it is a necessary procedure used by the accountant in reaching an opinion on the financial statements.

This would contrast with a situation where a registrant is evaluating a proposed transaction and asks the independent accountant to evaluate the accounting for the proposed transaction. After research and consultation, the accounting firm provides an answer to the registrant and bills for those services. In considering the nature of the services, these services would not be considered to be audit services.

These rules require that the audit committee pre-approve all services. In doing so, the Act permits the audit committee to establish policies and procedures for pre-approval provided they are detailed as to the particular service and designed to safeguard the continued independence of the accountant. For example, the Sarbanes-Oxley Act allows for one or more audit committee members who are independent board directors to pre-approve the service. Decisions made by the designated audit committee members must be reported to the full audit committee at each of its scheduled meetings.[159]

Consistent with the Sarbanes-Oxley Act, our rules also reflect a *de minimis*

[155] *See, e.g.*, letter from The Business Roundtable, dated January 13, 2003; letter from Chamber of Commerce of the United States of America, dated January 9, 2003; letter from Investment Company Institute, dated January 13, 2003; letter from Pfizer, dated January 13, 2003; letter from Sullivan & Cromwell LLP, dated January 10, 2003; letter from Wells Fargo & Company, dated January 13, 2003.

[156] *See, e.g.*, letter from America's Community Bankers, dated January 13, 2003; letter from American Society of Corporate Secretaries, dated January 13, 2003; letter from Ernst & Young, dated January 6, 2003.

[157] Section 202 of the Sarbanes-Oxley Act.

[158] Section 202 of the Sarbanes-Oxley Act; 15U.S.C 78j-1(i)(1)(A).

[159] The Act permits the audit committee to pre-approve a service at any time in advance of the activity. We expect that audit committees will establish policies for the maximum period in advance of the activity the approval may be granted. *See* ''Report of the Senate Committee on Banking, Housing and Urban Affairs, Public Company Accounting Reform and Investor Protection Act of 2002,'' 107th Cong., 2nd Sess., at 20 (Report 107–205. July 3, 2002).

exception solely related to the provision of non-audit services for an issuer. This exception waives the pre-approval requirements for non-audit services provided that: (1) All such services do not aggregate to more than five percent of total revenues paid by the audit client to its accountant in the fiscal year when services are provided, (2) were not recognized as non-audit services at the time of the engagement, and (3) are promptly brought to the attention of audit committee and approved prior to the completion of the audit by the audit committee or one or more designated representatives. Lastly, as further discussed later in this release, the audit committee's policies for pre-approvals of services should be disclosed by registrants in periodic annual reports.

As noted earlier, the proposed rules provided two alternatives related to pre-approval of permissible non-audit services as well as all audit, review, or attest engagements required under the securities laws: either pre-approval before the accountant is engaged to provide the services or the engagement is entered into pursuant to detailed pre-approval policies and procedures established by the audit committee, with the audit committee informed on a timely basis of each service. In response to issues raised by commenters, the final rule has been modified to remove the appearance of an implicit preference of one alternative over another.

With respect to investment companies, the proposed rule would have required pre-approval not only of the non-auditing services provided to the investment company, but also require pre-approval by the investment company's audit committee of the non-auditing services provided to the investment company's investment adviser and any entity controlling, controlled by, or under common control with the investment adviser that provides services to the investment company.

Commenters [160] expressed concern over the breadth of this proposed rule and the unintended consequences of the pre-approval process. Commenters [161] observed that an auditor could provide a non-audit service to an entity in an investment company complex that would require the pre-approval of multiple audit committees. Some commenters [162] indicated investment company complexes often have more than one audit committee for the various investment companies in the complex. Additionally, the other entities in the complex, themselves, will often have their own audit committees. As proposed, the rule would require not only the audit committee of the entity engaging the auditor to provide the non-audit service to pre-approve the use of the accountant, but also would require each audit committee of an investment company registrant in the complex to pre-approve the use of the accountant. This would ultimately result in each investment company audit committee having veto power over all non-audit services provided to the complex even if those services did not relate directly to the financial reporting or operations of the investment company. One commenter [163] expressed concern over the burden this would place on the investment company's audit committee. Other commenters [164] expressed concern with whether the members of the audit committee would be capable of evaluating the appropriateness of services provided to entities unrelated to the investment company's operations or financial reporting.

Commenters [165] suggested the rule should require the audit committee of the investment company to only pre-approve those audit and non-audit services provided directly to the investment company. One commenter [166] suggested the rule should require the audit committee of the investment company to pre-approve those audit and non-audit services that relate to the operations of the investment company.

After considering the comments, we believe modifying the approach by requiring the pre-approval of non-audit services to only those provided to the investment company directly, as suggested by several of the commenters, would not be consistent with the spirit or intent of the Sarbanes-Oxley Act. To address the commenters' concerns, but preserve the intent of the legislation, the rules as adopted would limit the investment company's audit committee pre-approval responsibility to those services provided directly to the investment company and those services provided to an entity in the investment company complex where the nature of the services provided have a direct impact on the operations or financial reporting of the investment company. The final rules would allow the investment company's audit committee to assess and determine before the work is conducted the impact that the services might reasonably have on the investment company accountant's independence as it relates to the audits of the investment company's financial statements. In addition, in response to one commenter's [167] suggestion concerning the non-audit services that should be disclosed, we have clarified the entities that provide services to the investment company that must be pre-approved. As adopted only the service providers that provide ''ongoing'' services to the investment company must have their non-audit services pre-approved. Thus, the final rules would limit the number of instances where pre-approval would be sought from multiple audit committees in the complex.

Although it may not be practical or feasible for the investment company audit committee to pre-approve all services provided to the investment company complex, we continue to believe the audit committee should be aware of all services the accountant is providing to entities in the investment company complex. One commenter [168] agreed with this position suggesting non-audit services be disclosed quarterly. As a result, we are adopting a requirement in the rule that the accountant disclose to the audit committee all services provided to the investment company complex, including the fees associated with those services.

The *de minimis* exception that was proposed would have calculated the percentage threshold based on the total revenues paid to the investment company's accountant by the investment company, its investment adviser and any entity controlling, controlled by, or under common control with the investment adviser that provided services to the investment company. We asked for comment on the appropriate methodology for calculating the *de minimis* exception. One commenter [169] suggested it would be

[160] *See, e.g.*, letter from Deloitte & Touche, dated January 10, 2003; letter from Ernst & Young, dated January 6, 2003; letter from Investment Company Institute, dated January 13, 2003.

[161] *See, e.g.*, letter from Ernst & Young, dated January 6, 2003; letter from Deloitte & Touche, dated January 10, 2003; letter from PricewaterhouseCoopers, dated January 8, 2003.

[162] *See,* letter from PricewaterhouseCoopers, dated January 8, 2003; letter from Investment Company Institute, dated January 13, 2003.

[163] *See,* letter from Investment Company Institute, dated January 13, 2003.

[164] *See,* letter from PricewaterhouseCoopers, dated January 8, 2003; letter from Deloitte & Touche, LLP, dated January 10, 2003.

[165] *See,* letter from Ernst & Young, LLP, dated January 6, 2003; letter from Investment Company Institute, dated January 13, 2003.

[166] *See,* letter from PricewaterhouseCoopers, dated January 8, 2003.

[167] *See,* letter from PricewaterhouseCoopers, dated January 8, 2003.

[168] *See,* letter from KPMG, LLP, dated January 9, 2003.

[169] *See,* letter from PricewaterhouseCoopers, dated January 8, 2003.

unfair to determine the calculation of the *de minimis* exception based on the total fees paid to the accountant by the investment company because the resulting threshold would be so low; the practical effect would be no *de minimis* exception for investment companies. Therefore, the commenter suggested the threshold should coincide with the scope of the pre-approval requirement. We agree with the commenter and believe that the calculation of the *de minimis* exception should not relate solely to the level of services provided to the investment company. We have modified the proposed rule to determine the threshold based on the services provided to the investment company complex that were subject to the pre-approval requirements for the investment company's audit committee.

The proposed rules would require the audit committee to pre-approve all audit, review, and attest reports required under the securities laws. Section 32(a) of the Investment Company Act requires that a majority of the directors who are not interested persons appoint the independent accountant of the investment company. We requested comment on who should approve the selection of the accountant of the investment company, for example, the independent directors, the audit committee or both. One commenter [170] stated that the audit committee should select the accountant and the independent directors should ratify the selection, thereby retaining the independent directors as the ultimate decision making authority with respect to accountant selection. After consideration of these matters, we have determined to adopt the rules as proposed.

Also, as discussed later in this release, these provisions are supplemented as a result of the proxy disclosure requirements. We believe that disclosure of the procedures the audit committee uses to pre-approve audit services, as well as the disclosure of all non-audit services by category, including those meeting the *de minimis* exception stated above, will provide investors valuable information that may be used to evaluate the relationships that exist between the accountant and the audit client.

These rules apply to all audit, review, and attest services and non-audit services that are entered into after the effective date of these rules. For arrangements for non-audit services entered into prior to the effective date of these rules—regardless of whether or not they were pre-approved by the audit committee—the accounting firm will have 12 months from the effective date of these rules to complete these services. For example, an engagement to provide non-audit services that was entered into in December 2002, which may or may not be complete by the effective date of these rules, is not subject to these rules, but must be completed within 12 months of the effective date of these rules. We believe these transition provisions will permit an orderly completion of existing engagements and permit accountants and audit committees adequate time to prepare to implement the new rules.

E. Compensation

We understand that some accounting firms offer their professionals cash bonuses and other financial incentives to sell products or services, other than audit, review, or attest services, to their audit clients. Such compensation arrangements may create a financial or other self-interest that could constitute a threat to the accountant's objectivity.[171] These arrangements also may detract from audit quality by incentivizing the audit partner to focus on selling non-audit services rather than providing high quality audit services.

We also question whether a reasonable investor with full knowledge of such incentive programs would believe that the accountant could function with the independence and objectivity that is necessary for him or her to maintain, both in fact and in appearance. We are concerned that an accountant might be viewed as compromising accounting judgments in order not to jeopardize the potential for increased income from the act of selling non-audit services to the audit client. Because of this concern, we proposed that an accountant's independence would be deemed to have been impaired when he or she is compensated for selling or performing non-audit services for an audit client. Our proposed rule limited such compensation, direct or otherwise, that could be provided to any audit engagement team partner.

Commenters expressed two primary concerns with the proposals. First, [172] because the compensation was not directly related to sales activities, the operation of the rule would have been difficult given the size and nature of some firms' national and global operations. For example, read literally as proposed, a partner's compensation could not include a proportionate share of the accounting firm's overall profits, because some of those profits would be derived from the provision of non-audit services by other firm personnel. Second, some commenters [173] observed that the provisions were perceived to be overly broad because, as proposed, they would have applied to partners who provide specialized services and would have prevented them from being rewarded for selling or performing services in their area of expertise. For example, under the proposal an audit partner could be rewarded for selling audit, review or attest services; however, tax partners could not be rewarded for selling additional tax services to audit clients if they were members of the audit engagement team. That is, audit partners could be rewarded for selling within their own discipline, but tax partners could not.

We are addressing these concerns by clarifying that the compensation concerns exist where the audit partner's compensation is based on the act of selling non-audit services and specifying that the rule applies to audit partners. As described more fully in our discussion of definitions, the term audit partner refers to the lead and concurring partners and other partners on the audit engagement team who have responsibility for decision-making on significant auditing, accounting, and reporting matters that affect the financial statements or who maintain regular contact with management or the audit committee. In particular, audit partners, other than specialty partners, would include all audit partners serving the client at the issuer or parent.[174] Further, the lead partner on subsidiaries of the issuer whose assets or revenues constitute 20% or more of the consolidated assets or revenues are included within the definition of audit partner. Conceivably, ''compensation'' could include any form of cash or other assets distributed to the audit partner, including any income or benefit based

[170] *See,* letter from Investment Company Institute, dated January 13, 2003.

[171] *See, e.g.*, AICPA, *Practice Alert 99–1*, Guidance for Independence Discussions with Audit Committees, (May 1999).

[172] *See, e.g.*, letter from American Institute of Certified Public Accountants, dated January 9, 2003; letter from Deloitte & Touche, LLP, dated January 10, 2003; letter from Ernst & Young, LLP, dated January 6, 2003; letter from Federation des Experts Comptables Europeens, dated January 13, 2003; letter from Institute of Chartered Accountants in England and Wales, dated December 24, 2002; letter from KPMG, LLP, dated January 9, 2003; letter from PricewaterhouseCoopers, dated January 8, 2003.

[173] *See, e.g.*, letter from Ernst & Young, LLP, dated January 6, 2003; letter from Deloitte & Touche, LLP, dated January 10, 2003; letter from KPMG, LLP, dated January 9, 2003; letter from McGladrey & Pullen, LLP, dated January 9, 2003.

[174] As discussed previously, partners who provided ten or fewer hours of service are excluded from the definition of audit partner.

on an evaluation of the partner's performance.

This rule prohibits accounting firms from establishing an audit partner's compensation or allocation of partnership ''units'' based on the sale [175] of non-audit services to the partner's audit clients.[176] This provision also reinforces the position that accountants at the partner level should be viewed as skilled professionals and not as conduits for the sale of non-audit services to the audit partner's individual clients. This provision recognizes and focuses on the need for independence of the most senior members of the engagement team. However, this rule does not preclude an audit partner from sharing in the profits of the audit practice and those of the overall firm.[177] And, an audit partner's evaluation could take into account a number of factors directly or indirectly related to selling services to an audit client.[178]

Accordingly, we are amending the auditor independence rules to address the practice of accountants being compensated by their firms for selling non-audit products and services to their audit clients.[179] The new rule would provide that an accountant is not independent if, at any point during the audit and professional engagement period,[180] any audit partner,[181] other than specialty partners,[182] earns or receives compensation [183] based on selling engagements to that audit client, to provide any services,[184] other than audit, review, or attest services.

The lead partner is responsible for managing not only the audit engagement but also the client relationship. The lead partner is in a position to identify potential services that could benefit the audit client. Furthermore, because of the lead partner's frequent interaction with management, he or she has the opportunity to ''pitch'' those services to management. Thus, the lead partner relationship with management has been used by some as a conduit to sell non-audit services to the audit client.[185] In contrast, partners at smaller operating units and ''specialty'' partners typically have a low level of involvement with senior management and the responsibility for the overall presentation in the financial statements is relatively low.

The application of these rules allows partners to be compensated for selling services with their discipline. Thus, just as an audit partner can be compensated for selling audit and audit-related services, so, too, can a tax partner be compensated for selling tax services. A specialty partner receiving compensation for selling within his or her discipline does not create the same threat to independence as when an audit partner is compensated for selling those non-audit services because the lead partner retains overall responsibility for the conduct of the audit. Additionally, there is a concurring partner who reviews the work on the audit engagement team. Finally, specialty partners have limited relationships with management in the context of their activities as a member of the audit engagement team.

The rules that we are adopting mitigate the concerns that an audit partner might be viewed as compromising audit judgments in order not to jeopardize the potential for selling non-audit services. These rules do not specifically address the provision of compensation to other audit engagement team members for directly selling non-audit services. We believe that, however, the other audit engagement team members will perform in a fashion that is consistent with the direction and tone set by the audit partners. Nonetheless, as it pre-approves non-audit services an audit committee may wish to consider whether, in the company's particular circumstances, compensating a senior staff member on the audit engagement team based on his or her success in selling the service to the company compromises that individual's or the firm's independence.

Further, in conducting its oversight review of registered public accounting firms, we expect that the Board will monitor the impact of these rules on audit quality and independence.

With respect to investment companies, the proposed rule on compensation would have prohibited all partners, principals and shareholders of an accounting firm that are members of the audit engagement team from being compensated for selling non-audit services to a registered investment company audit client or any other entity in the investment company complex. One commenter [186] suggested the rule on partner compensation for investment companies should apply only to the selling of non-audit services to the investment company itself and not to other entities in the investment company complex. We disagree and continue to believe a partner on a registered investment company audit should not be directly compensated for selling non-audit services to other entities in the investment company complex, for example, the investment company's investment adviser. Thus, we have not made changes to this aspect of the rule.

We understand that because of the seasonal nature of accounting firms that many firms have fiscal periods that end in the April to September time frame. In recognition of this fact and understanding that individuals may be operating in the current period under an established set of performance goals, the provisions of this paragraph will be effective in the fiscal periods of the accounting firm that commence after the effective date of these rules. Further, recognizing that the application of this rule could have a disproportionate economic impact on small firms, we are exempting firms with fewer than five

[175] For purposes of this rule, the term ''sale'' is meant to encompass any revenue, fees, or compensation related to non-audit services provided over the period of the evaluation, regardless when contracted.

[176] *Id.*

[177] Consistent with the idea that an audit partner cannot be directly compensated for selling non-audit services, no part of that partner's distribution or other form of compensation should be directly received from selling of non-audit services (for example, from a ''pool'' of profits generated by a valuation services business unit). In contrast, that partner may receive distributions or other compensation from the ''pool'' attributable to the audit practice, a geographic unit comprised of several services or offices, or the entire firm.

[178] For example, an audit partner could be evaluated on the complexity of his or her engagements, the overall management of the relationship with an audit client including the provision of non-audit services, and/or the attainment of explicit sales goals.

[179] An audit partner could be compensated for selling audit or audit-related services to an audit client. Additionally, an audit partner could be compensated for selling either audit or non-audit services to a non-audit client.

[180] ''Audit and professional engagement period'' includes both the period covered by the financial statements being audited or reviewed and the period of engagement to audit or review the client's financial statements or to prepare a report filed with the Commission. The period of engagement begins when the auditor signs an initial engagement letter or begins audit, review or attest procedures, and ends when the client or the auditor notifies the Commission that the client is no longer the auditor's audit client. *See* Rule 2–01(f)(5) of Regulation S–X, 17 CFR 210.2–01(f)(5).

[181] 17 CFR 210.2–01(f)(7)(ii).

[182] Specialty partners are, among others, those partners who consults with others on the audit engagement team during the audit, review or attestation engagement regarding technical or industry-specific issues. For example, such partners would include tax specialist and valuation specialist.

[183] Nothing in these rules is meant to limit the ability of an accounting firm from distributing profits in a manner that is consistent with the operation of a partnership or service organization.

[184] For purposes of this discussion, services include tangible products as well as professional services.

[185] *See e.g., In the Matter of Arthur Andersen LLP,* Accounting and Auditing Enforcement Release No. 1405 (June 19, 2001), at notes 15–17.

[186] *See,* letter from Investment Company Institute, dated January 13, 2003.

audit clients that are issuers [187] and fewer than ten partners from the provisions of this requirement.

F. Definitions

The rules that the Commission is adopting impact various parties involved in the audit and financial reporting process of issuers. To more clearly identify those parties, we have revised and added to the definitions in Rule 2–01(f) of Regulation S–X. This section discusses those definitions.

1. Accountant

The term ''accountant'' previously was defined under the rules of the Commission as a ''certified public accountant or public accountant performing services in connection with an engagement for which independence is required.'' [188] We have added to the definition the phrase, ''registered public accounting firm.'' Under the provisions of the Sarbanes-Oxley Act, public accounting firms must register with the Board in order to prepare or issue, or to participate in the preparation or issuance of, any audit report with respect to any issuer.[189] Thus, the term ''registered public accounting firm'' refers to a firm that has registered with the Board in accordance with the requirements of the Sarbanes-Oxley Act.

2. Accounting Role

Under the previous rules of the Commission, ''accounting role or financial reporting oversight role'' was a defined term. However, because the rules requiring a cooling-off period for employment at the issuer relate only to those performing a financial reporting oversight role, the Commission has separated the definition of ''accounting role'' from that of ''financial reporting oversight role.'' The term ''accounting role'' refers to a role where a person can or does exercise more than minimal influence over the contents of the accounting records or over any person who prepares the accounting records. All persons in a ''financial reporting oversight role'' (defined below) also are in an ''accounting role.'' Persons in an accounting role include individuals in clerical positions responsible for accounting records (*e.g.*, payroll, accounts payable, accounts receivable, purchasing, sales) as well as those who report to individuals in financial reporting oversight roles (*e.g.*, assistant controller, assistant treasurer, manager of internal audit, manager of financial reporting).

3. Financial Reporting Oversight Role

The term ''financial reporting oversight role'' refers to a role in which an individual has direct responsibility for or oversight of those who prepare the registrant's financial statements and related information (*e.g.*, management discussion and analysis), which will be included in a registrant's document filed with the Commission. As noted above, ''accounting role and financial reporting oversight role'' previously was one definition. In order to subject the appropriate individuals to certain portions of these rules, we have bifurcated the definitions.

4. Audit Committee

Section 205 of the Sarbanes-Oxley Act defines an audit committee as:

> A committee (or equivalent body) established by and amongst the board of directors of an issuer for the purpose of overseeing the accounting and financial reporting processes of the issuer and audits of the financial statements of the issuer.

The Act further stipulates that if no such committee exists, then the audit committee is the entire board of directors. For purposes of these independence rules, the Commission is adopting the same meaning for audit committee as used in the Act.

The audit committee serves as an important body, serving the interests of investors, to help ensure that the registrant and its accountants fulfill their responsibilities under the securities laws. Because the definition of an audit committee can include the entire board of directors if no such committee of the board exists, these rules do not require registrants to establish audit committees. Likewise, the auditor independence rules do not require that the committee be composed of independent members of the board.[190]

Some entities do not have boards of directors and therefore do not have audit committees. For example, some limited liability companies and limited partnerships that do not have a corporate general partner may not have an oversight body that is the equivalent of an audit committee. We are not exempting these entities from the requirements. Rather, such issuers should look through each general partner of the successive limited partnerships until a corporate general partner or an individual general partner is reached. With respect to a corporate general partner, the registrant should look to the audit committee of the corporate general partner or to the full board of directors as fulfilling the role of the audit committee. With respect to an individual general partner, the registrant should look to the individual as fulfilling the role of the audit committee.

We are, however, exempting asset-backed issuers [191] and unit investment trusts [192] from this requirement. Because of the nature of these entities, such issuers are subject to substantially different reporting requirements. Most significantly, asset-backed issuers are not required to file financial statements like other companies. Similarly, unit investment trusts are not required to provide shareholder reports containing audited financial statements. Also, such entities typically are passively managed pools of assets. Therefore, we are not applying the requirements related to audit committees in this release to such entities.

5. Audit Engagement Team

As discussed earlier in this release, the cooling off period applies to members of the audit engagement team. As used in this release, the term audit engagement team means all partners (or person in an equivalent position) and professional employees participating in an audit, review, or attestation engagement of an audit client. Included within the audit engagement team would be partners and all other persons who consult with other members of the engagement team during the audit, review, or attestation engagement regarding technical or industry-specific issues, transactions, or events.

6. Audit Partner

The term audit partner is an integral part of the rules we are adopting related to partner compensation and partner rotation. In each case, the affected parties are audit partners. As used in this rule, the term audit partner means a partner (or person in an equivalent position) who is a member of the audit engagement team (as defined above) who has responsibility for decision-making on significant auditing, accounting, and reporting matters that affect the financial statements or who maintains regular contact with management and the audit committee.

The term audit partner would include the lead and concurring partners, partners such as relationship partners who serve the client at the issuer or

[187] As defined in section 10A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(f)).

[188] 17 CFR 2–01(f)(1).

[189] *See,* Section 102(a) of the Sarbanes-Oxley Act.

[190] *See,* Release No. 33–8173 (Jan. 8, 2003).

[191] As defined in 17 CFR 240.13a–14(g) and 240.15d–14(g).

[192] As defined by Section 4(2) of the Investment Company Act [15 U.S.C. 80a–4(2)].

parent level, other than a partner who consults with others on the audit engagement team during the audit, review, or attestation engagement regarding technical or industry-specific issues, transactions, or events, and the lead partner on subsidiaries of the issuer whose assets or revenues constitute 20% or more of the consolidated assets or revenues of the issuer.[193]

G. Communication With Audit Committees

Auditors are required by GAAS to communicate certain matters to the audit committee. In particular, GAAS require that the accountant should determine that the audit committee is informed about matters such as:

- Auditor's responsibility under GAAS,
- Significant accounting policies,
- Methods used to account for significant unusual transactions,
- Effects of significant accounting policies in controversial or emerging areas for which there is a lack of authoritative guidance or consensus,
- Process used by management in formulating particularly sensitive accounting estimates and the basis for the auditor's conclusions regarding the reasonableness of those estimates,
- Material audit adjustments proposed and immaterial adjustments not recorded by management,
- Auditor's judgments about the quality of the company's accounting principles,
- Auditor's responsibility for other information in documents containing audited financial statements,
- Auditor's views about significant matters that were the subject of consultation between management and other accountants,
- Major issues discussed with management prior to retention,
- Difficulties with management encountered in performing the audit, and
- Disagreements with management over the application of accounting principles, the basis for management's accounting estimates, and the disclosures in the financial statements.[194]

Accountants are required under GAAS to provide these communications in a timely manner but not necessarily before the issuance of the audit report.[195] Accountants also may communicate with audit committees on matters in addition to those specifically required by GAAS, including auditing issues, engagement letters, management representation letters, internal controls, auditor independence, and others.

Section 204 of the Sarbanes-Oxley Act directs the Commission to issue rules requiring timely reporting of specific information by accountants to audit committees. In response to the Act, we proposed amending Regulation S–X to require each public accounting firm registered with the Board that audits an issuer's financial statements to report, prior to the filing of such report with the Commission, to the issuer or registered investment company's audit committee: (1) All critical accounting policies and practices used by the issuer or registered investment company, (2) all alternative accounting treatments of financial information within generally accepted accounting principles (''GAAP'') that have been discussed with management, including the ramifications of the use of such alternative treatments and disclosures and the treatment preferred by the accounting firm, and (3) other material written communications between the accounting firm and management of the issuer or registered investment company.

Some commenters[196] believe that these communications should be the responsibility of management alone. Others,[197] however, believe that both the accountant and management should share the responsibility for informing the audit committee about such matters. While we understand that management has the primary responsibility for the information contained in the financial statements, since the accounting firm is retained by the audit committee, we share the view reflected in Section 205 of the Sarbanes-Oxley Act and current auditing standards, that the accounting firm has a responsibility to communicate certain information to the audit committee. As discussed below, we are adopting rules requiring that certain information be communicated by the independent accountant to the audit committee. Some commenters[198] believe that the Commission should require that these communications be in writing. Others,[199] however, disagree. We have not required that the communication be in writing. We would expect, however, that such communications would be documented by the accountant and the audit committee. We believe that many of these communications currently are being made as accountants fulfill their responsibilities under GAAS and the securities laws.[200]

In describing the role and responsibilities of the audit committee, Warren Buffett has stated that:

> Their function * * * is to hold the auditor's feet to the fire. And, I suggest * * * the audit committee ask [questions] of the auditors [including]: if the auditor were solely responsible for preparation of the company's financial statements, would they have been prepared in any way differently than the manner selected by management? They should inquire as to both material and non-material differences. If the auditor would have done anything differently than management, then explanations should be made of management's argument and the auditor's response.[201]

Requiring that the accountants communicate information to the audit committee will aid the audit committee in fulfilling its responsibilities.

1. Critical Accounting Policies and Practices

Consistent with our proposal, we are establishing rules requiring communication by accountants to audit committees of all critical accounting policies and practices.[202] In December 2001, we issued cautionary advice regarding each issuer disclosing in the Management's Discussion and Analysis[203] section of its annual report

[193] The term ''audit partner'' also would include any audit partner on a registered investment company whether or not the investment company issues consolidated financial statements.

[194] *See,* AU § 380, ''Communication with Audit Committees.'' There are additional GAAS requirements related to auditor communications that are not included in this rule, such as the auditor's responsibilities under GAAS, the auditor's responsibilities related to documents containing audited financial statements, and disagreements with management, consultations with other accountants, major issues discussed with management prior to retention, and difficulties encountered in performing the audit, to the extent that those matters do not relate to accounting policies and practices.

[195] *Id.*

[196] *See, e.g.,* letter from The Institute of Chartered Accountants of Scotland, dated January 8, 2003; letter from Battelle & Battelle, LLP, dated December 20, 2002; letter from Grant Thornton LLP, dated January 13, 2003.

[197] *See, e.g.,* letter from Gelford Hochstadt Pangburn, PC, dated January 3, 2003; letter from Ernst & Young LLP, dated January 6, 2003.

[198] *See, e.g.,* letter from Piercy Bowler Taylor & Kern, dated January 7, 2003; letter from Robert G. Beard, undated; letter from Eide Bailly LLP, dated January 8, 2003; letter from California Public Employees' Retirement System, dated January 10, 2003; letter from Lynn E. Turner, dated January 13, 2003.

[199] *See, e.g.,* letter from Computer Sciences Corporation, dated January 13, 2003; letter from Sullivan & Cromwell LLP, dated January 10, 2003; letter from America's Community Bankers, dated January 13, 2003; letter from Deloitte & Touche LLP, dated January 10, 2003.

[200] *See,* ''Audit Committee Disclosures,'' Release No. 34–42266, Dec. 22, 1999.

[201] Warren Buffett, Comments during SEC ''Roundtable Discussion on Financial Disclosure and Auditor Oversight,'' March 4, 2002.

[202] In this release, the terms ''critical accounting policies and practices'' and ''critical accounting policies'' are used interchangeably.

[203] Item 303 of Regulation S–K, (17 CFR 229.303), which requires disclosure about, among other

Continued

those accounting policies that management believes are most critical to the preparation of the issuer's financial statements.[204] The cautionary advice indicated that ''critical'' accounting policies are those that are both most important to the portrayal of the company's financial condition and results and require management's most difficult, subjective or complex judgments, often as a result of the need to make estimates about the effect of matters that are inherently uncertain.[205] As part of that cautionary advice, we stated:

> Prior to finalizing and filing annual reports, audit committees should review the selection, application and disclosure of critical accounting policies. Consistent with auditing standards, audit committees should be apprised of the evaluative criteria used by management in their selection of the accounting principles and methods. Proactive discussions between the audit committee and the company's senior management and auditor about critical accounting policies are appropriate.[206]

In May 2002, the Commission proposed rules to require disclosures that would enhance investors' understanding of the application of companies' critical accounting policies.[207] The May 2002 proposed rules cover (1) accounting estimates a company makes in applying its accounting policies and (2) the initial adoption by a company of an accounting policy that has a material impact on its financial presentation. Under the first part of those proposed rules, a ''critical accounting estimate'' is defined as an accounting estimate recognized in the financial statements (1) that requires the registrant to make assumptions about matters that are highly uncertain at the time the accounting estimate is made and (2) for which different estimates that the company reasonably could have used in the current period, or changes in the accounting estimate that are reasonably likely to occur from period to period, would have a material impact on the presentation of the registrant's financial condition, changes in financial condition or results of operations. The May 2002 proposed rules outline certain disclosures that a company would be required to make about its critical accounting estimates. In addition, under the second part of the May 2002 proposed rules, a company would be required to make certain disclosures about its initial adoption of accounting policies, including the choices the company had among accounting principles.

Accountants and issuers should read and refer to the December 2001 Cautionary Guidance to determine the types of matters that should be communicated to the audit committee under this rule. We are not requiring that those discussions follow a specific form or manner, but we expect, at a minimum, that the discussion of critical accounting estimates and the selection of initial accounting policies will include the reasons why estimates or policies meeting the criteria in the Guidance are or are not considered critical and how current and anticipated future events impact those determinations. In addition, we anticipate that the communications regarding critical accounting policies will include an assessment of management's disclosures along with any significant proposed modifications by the accountants that were not included.

2. Alternative Accounting Treatments

We recognize that the complexity of financial transactions results in accounting answers that are often the subject of significant debate between management and the accountants. Some commenters[208] to the proposed rules suggested that this rule be restricted to material accounting alternatives. These commenters indicated that restricting these communications will assist audit committee members by focusing their attention on important accounting alternatives. One commenter[209] believes that only alternative treatments under GAAP that were the subject of serious consideration and debate by the accountant and management should be communicated to the audit committee.

We understand the concerns expressed and, accordingly, we have clarified the final rule. Providing audit committees with information on material accounting alternatives is consistent with the objectives of the Act and will minimize the risk that audit committee members will be distracted from material accounting policy matters by the numerous discussions between the accountant and management on the application of accounting principles to relatively small transaction or events. Therefore, these rules require communication, either orally or in writing, by accountants to audit committees of all alternative treatments within GAAP for policies and practices related to material items that have been discussed with management, including the ramifications of the use of such alternative treatments and disclosures and the treatment preferred by the accounting firm. This rule is intended to cover recognition, measurement, and disclosure considerations related to the accounting for specific transactions as well as general accounting policies.

We believe that communications regarding specific transactions should identify, at a minimum, the underlying facts, financial statement accounts impacted, and applicability of existing corporate accounting policies to the transaction. In addition, if the accounting treatment proposed does not comply with existing corporate accounting policies, or if an existing corporate accounting policy is not applicable, then an explanation of why the existing policy was not appropriate or applicable and the basis for the selection of the alternative policy should be discussed. Regardless of whether the accounting policy selected preexists or is new, the entire range of alternatives available under GAAP that were discussed by management and the accountants should be communicated along with the reasons for not selecting those alternatives. If the accounting treatment selected is not, in the accountant's view, the preferred method, we expect that the reasons why the accountant's preferred method was not selected by management also will be discussed.

Communications regarding general accounting policies should focus on the initial selection of and changes in significant accounting policies, as required by GAAS,[210] and should include the impact of management's judgments and accounting estimates, as well as the accountant's judgments about the quality of the entity's accounting principles. The discussion of general accounting policies should include the range of alternatives available under GAAP that were discussed by management and the accountants along with the reasons for selecting the chosen policy. If an existing accounting policy is being modified, then the reasons for the change also should be communicated. If the accounting policy selected is not the accountant's preferred policy, then we

things, trends, events or uncertainties known to management that would have a material impact on reported financial information.

[204] Release No. 33–8040, Dec. 12, 2001, (66 FR 65013).

[205] *Id.*

[206] *Id.* (footnotes omitted).

[207] Release No. 33–8090, May 10, 2002, (67 FR 35620).

[208] *See, e.g.,* letter from Chamber of Commerce of the United States of America, dated January 9, 2003; letter from Battelle & Battelle LLP, dated December 20, 2002; letter from Eli Lilly and Company, dated January 9, 2003; letter from Computer Sciences Corporation, dated January 13, 2003; letter from PricewaterhouseCoopers, dated January 8, 2003.

[209] *See, e.g.,* letter from Deloitte & Touche LLP, dated January 10, 2003.

[210] *See,* AU § 380.

expect the discussions to include the reasons why the accountant considered one policy to be preferred but that policy was not selected by management.

The separate discussion of critical accounting policies and practices is not considered a substitute for communications regarding general accounting policies, since the discussion about critical accounting policies and practices might not encompass any new or changed general accounting policies and practices. Likewise, this discussion of general accounting policies and practices is not intended to dilute the communications related to critical accounting policies and practices, since the issues affecting critical accounting policies and practices, such as sensitivities of assumptions and others, may be tailored specifically to events in the current year, and the selection of general accounting policies and practices should consider a broad range of transactions over time.

3. Other Material Written Communications

We understand written communications between accountants and management range from formal documents, such as engagement letters, to informal correspondence, such as administrative items. We also acknowledge that historically not all forms of written communications provided to management have been provided to the audit committee. Our rule is intended to implement Section 205 of the Sarbanes-Oxley Act, which clarified the substance of information that should be provided by accountants to audit committees to facilitate accountant and management oversight by those committees.

The Sarbanes-Oxley Act specifically cites the management letter and schedules of unadjusted differences as examples of material written communications to be provided to audit committees. Examples of additional written communications that we expect will be considered material to an issuer include:

- Management representation letter;[211]
- Reports on observations and recommendations on internal controls;[212]
- Schedule of unadjusted audit differences,[213] and a listing of adjustments and reclassifications not recorded, if any;
- Engagement letter;[214] and
- Independence letter.[215]

These examples are not exhaustive, and accountants are encouraged to critically consider what additional written communications should be provided to audit committees.

4. Timing of Communications

Commenters[216] generally agreed with our proposal that the communications should occur prior to the filing of the issuer's periodic annual report, although a commenter[217] suggested that the communications should occur throughout the period. The Act requires that the communications be timely reported to the audit committee. For purposes of the requirements of this provision, our rule specifies that the communications between the accountant and the audit committee occur prior to the filing of the audit report with the Commission pursuant to applicable securities laws. As a result, these discussions will occur, at a minimum, during the annual audit, but we expect that they could occur as frequently as quarterly or more often on a real-time basis.

The timing of these communications is intended to occur before any audit report is filed with the Commission pursuant to the securities laws. We believe that this rule will ensure that these communications occur prior to filing of annual reports and proxy statements, as well as prior to filing registration statements and other periodic or current reports when audit reports are included.

5. Investment Companies

The proposed rules would have required accountants to communicate with an audit committee of an investment company all critical accounting policies, alternative methodologies and other material information before filing an audit report with the Commission. Although commenters[218] generally agreed that the information required to be communicated was appropriate, the timing of such communications would be problematic for investment companies. Commenters[219] stated that investment companies within an investment company complex frequently have a common board of directors, but have staggered fiscal-year ends. As a result, the proposed rules could require accountants to communicate with audit committees as frequently as monthly. To eliminate this burden, some commenters[220] suggested these discussions occur as infrequently as annually, with two commenters[221] suggesting updates for material changes. Another commenter[222] suggested that we leave communication of these matters up to the discretion of the investment company's audit committee and the accountant.

We believe it is important to discuss critical accounting policies, alternative methodologies, and other material information close to the time when the audit report is filed. It is not our intention, however, to have accountants communicate the same information to the audit committee multiple times during the year. As adopted, the final rules require the accountant to communicate to the audit committee of an investment company annually, and if the annual communication is not within 90 days prior to the filing, provide an update in the 90 day period prior to the filing, of any changes to the previously reported information.[223]

The adopted rules, in effect, would require an accountant of an investment company complex where the individual funds have different fiscal year ends to communicate the required information no more frequently than four times during a calendar year. We believe this should not place an undue burden on investment company audit committees because many of the boards of directors

[211] *See,* SAS No. 85, ''Management Representations,'' AU § 333.

[212] *See,* SAS 60, ''Communication of Internal Control Related Matters Noted in an Audit,'' AU § 325.

[213] *See,* SAS No. 89, ''Audit Adjustments,'' AU § 333.

[214] *See,* SAS No. 83, ''Establishing an Understanding With the Client,'' AU § 310.

[215] *See,* SQCS No. 2, ''System of Quality Control for a CPA Firm's Accounting and Auditing Practice,'' QC § 20.

[216] *See, e.g.*, letter from California Public Employees' Retirement System, dated January 10, 2003; letter from Computer Sciences Corporation, dated January 13, 2003; letter from American Institute of Certified Public Accountants, dated January 9, 2003; letter from PricewaterhouseCoopers, dated January 8, 2003.

[217] *See, e.g.*, letter from Lynn E. Turner, dated January 13, 2003.

[218] *See,* letter from The Vanguard Group, dated January 13, 2003; letter from Investment Company Institute, dated January 13, 2003; letter from PricewaterhouseCoopers, dated January 8, 2003.

[219] *See, e.g.*, letter from The Vanguard Group, dated January 13, 2003; letter from Investment Company Institute, dated January 13, 2003; letter from Ernst & Young, dated January 6, 2003.

[220] *See,* letter from The Vanguard Group, dated January 13, 2003; letter from Investment Company Institute, dated January 13, 2003; letter from PricewaterhouseCoopers, dated January 8, 2003.

[221] *See,* letter from Investment Company Institute, dated January 13, 2003; letter from The Vanguard Group, dated January 13, 2003.

[222] *See,* letter from Ernst & Young, dated January 6, 2003.

[223] The rule also would require communication of a description of all non-audit services provided, including fees associated with the services, to the investment company complex that were not subject to the pre-approval requirements for investment companies as discussed in Section II.D of this release.

for investment companies meet on a quarterly basis.[224]

H. Expanded Disclosure

To allow the issuer's investors to be better able to evaluate the independence of the accountant, we believe that disclosures should be made by issuers of the scope of services provided by its independent public accountants. Section 202 of the Sarbanes-Oxley Act requires pre-approval of all audit and non-audit services, with exceptions provided for *de minimis* amounts under certain circumstances, as described in the Act and in rules discussed previously in this release. The Sarbanes-Oxley Act further requires disclosure in periodic reports of non-audit services approved by the audit committee.

Current proxy disclosure rules require that a registrant disclose, in the most recent fiscal year, the professional fees paid for both audit and non-audit services to its principal independent accountant. As a result of the requirements of Sarbanes-Oxley and partly in response to public comment on the current proxy disclosures requirements since their adoption in 2000, we proposed rules to change both the types of fees that must be described and the number of years for which the disclosures must be provided.[225] The proposed rules would have increased the disclosed categories of professional fees paid for audit and non-audit services from three to four. The categories of reportable fees proposed were: (1) Audit Fees, (2) Audit-Related Fees, (3) Tax Fees, and (4) All Other Fees.[226] The proposed disclosure called for information to be provided for each of the two most recent fiscal years, rather than just the most recent fiscal year. In addition, we proposed that registrants be required to describe in subcategories the nature of the services provided that are categorized as audit-related fees and all other fees.

Our proposed changes to the proxy disclosure rules were intended to clarify the categorization of services provided by the audit firm in order to provide increased transparency for investors. Many commenters[227] favored the approach of our proposals, however, some commenters[228] requested clarification relating to the categorization of certain types of services. For example, the discussion accompanying the proposed rules stated that the ''tax fees'' category would capture all services performed by professional staff in the independent accountant's tax division. Thus, the proposed rules would have required that the fees associated with the review by the tax partner of the tax accrual during the audit be included within the ''tax services category.'' However, as stated elsewhere in the proposing release, the ''audit services'' category should include services performed to fulfill the accountant's responsibility under GAAS. Likewise, complex accounting issues may require that the firm engage in consultation with national office or other technical reviewers to reach an audit judgment.

Some commenters[229] generally agreed with the proposed categories of services. Some,[230] however, suggested modifications or clarifications to the categories or reductions in the number of categories. Additionally, some commenters suggested that the disclosures should be provided for three years[231] and others suggested that they be provided for only one year.[232]

Our final rules retain the basic provisions of our proposals. In response to the requests by commenters for clarification of the categorization of services, we expect that all services performed to comply with GAAS should be classified as ''audit services'' in providing the disclosures. Certain services, such as tax services and accounting consultations, may not be billed as audit services. However, to the extent that such services are necessary to comply with GAAS, an appropriate allocation of those fees may be included in the audit fee category. We recognize, however, that some services may be difficult to classify and we encourage issuers and their accountants to contact our staff to discuss the appropriate classifications.

Consistent with our proposal, we are adopting rules requiring issuers to provide disclosures of fees paid to the independent accountant segregated into the four previously-identified categories. Additionally, other than for the audit category, the issuer is required to describe, in qualitative terms, the types of services provided under the remaining three categories. Also, consistent with our proposal, this information is required for the two most recent years. Finally, consistent with our proposal, this information must be provided either in the issuer's proxy statement, or its periodic annual filing.

While the rules we are adopting continue to require issuers to disclose fees paid to the principal accountant for audit services, we are expanding the types of fees that should be included in this category to include fees for services that normally would be provided by the accountant in connection with statutory and regulatory filings or engagements. In addition to including fees for services necessary to perform an audit or review in accordance with GAAS,[233] this category also may include services that generally only the independent accountant reasonably can provide, such as comfort letters, statutory audits, attest services, consents and assistance with and review of documents filed with the Commission.

We believe that the addition of a new category, ''Audit-Related Fees,'' will enable registrants to present the audit fee relationship with the principal accountant in a more transparent fashion. In general, ''Audit-Related Fees'' are assurance and related services (*e.g.*, due diligence services) that traditionally are performed by the independent accountant. More specifically, these services would include, among others: employee benefit plan audits, due diligence related to mergers and acquisitions, accounting consultations and audits in connection with acquisitions, internal control reviews, attest services that are not required by statue or regulation and

---

[224] Similarly, the accountant only would need to disclose those non-audit services provided to the investment company complex that they were engaged to perform during the intervening period since their last communication, but for which pre-approval by the investment company's audit committee was not required.

[225] *See,* proposed Item 9(e), Schedule 14A.

[226] Previously, registrants were required to disclose only ''Audit Fees,'' ''Financial Systems Design and Implementation Fees'' and ''All Other Fees.''

[227] *See, e.g.*, letter from California Public Employees' Retirement System, dated January 10, 2003; letter from The Business Roundtable, dated January 13, 2003; letter from American Community Bankers, dated January 13, 2003; letter from American Institute of Certified Public Accountants, dated January 9, 2003; letter from Financial Executives International's Committee on Corporate Reporting, dated January 14, 2003.

[228] *See, e.g.*, letter from Eli Lilly and Company, dated January 9, 2003; letter from KPMG, dated January 9, 2003; letter from Deloitte & Touche, LLP, dated January 10, 2003.

[229] *See, e.g.*, letter from Ralph S. Saul, dated December 23, 2002; letter from Ernst & Young, dated January 6, 2003; letter from Commercial Federal Corporation, dated January 13, 2003.

[230] *See, e.g.*, letter from Lynn E. Turner, dated January 13, 2003; letter from California Public Employees' Retirement System, dated January 10, 2003; letter from Eli Lily and Company, dated January 9, 2003; letter from American Bar Association, Sector of Business Law, dated January 14, 2003.

[231] *See, e.g.*, letter from California Public Employees' Retirement System, dated January 10, 2003; letter from California Board of Accountancy, dated January 13, 2003; letter from Lynn E. Turner, dated January 13, 2003.

[232] *See, e.g.*, letter from American Institute of Certified Public Accountants, dated January 9, 2003; letter from Wells Fargo & Company, dated January 13, 2003.

[233] *See also,* Section 2(a)(2) the Sarbanes-Oxley Act which defines the term ''audit.''

consultation concerning financial accounting and reporting standards.

We also believe it is appropriate to add transparency regarding a second category of fees: ''Tax Fees.'' The review of a registrant's tax returns and reserves is a task that often requires extensive knowledge about the audit client. In many public companies, the fee for tax services is substantial in relation to other services. We believe that investors will benefit from being able to consider those fees separately from the ''All Other Fees'' category. The ''Tax Fees'' category would capture all services performed by professional staff in the independent accountant's tax division except those services related to the audit as discussed previously. Typically, it would include fees for tax compliance, tax planning, and tax advice. Tax compliance generally involves preparation of original and amended tax returns, claims for refund and tax payment-planning services. Tax planning and tax advice encompass a diverse range of services, including assistance with tax audits and appeals,[234] tax advice related to mergers and acquisitions, employee benefit plans and requests for rulings or technical advice from taxing authorities.

The category of ''All Other Fees'' would remain unchanged from the existing rule, except that to the extent that financial information systems implementation and design exist they would be disclosed as a component of ''All Other Fees.''

Consistent with our proposal, we also are requiring that the information be provided for two periods so that investors will have comparative information about the fees paid to the independent accountant by the issuer.

As noted in our previous discussion about audit committee pre-approval requirements, we have clarified the guidance on audit committee pre-approval of services provided by the independent accountant. Accordingly, the issuer must provide disclosure of the audit committee's pre-approval policies and procedures. Additionally, to the extent that the audit committee has applied the *de minimis* exception discussed previously, the issuer must disclose the percentage of the total fees paid to the independent accountant where the *de minimis* exception was used. This information should be provided by category.

We expect registrants to provide clear, concise and understandable descriptions of the policies and procedures. Alternatively, registrants could include a copy of those policies and procedures with the information delivered to investors and filed with the Commission. Either method should allow shareholders to obtain a complete and accurate understanding of the audit committee's policies and procedures. We expect the policies and procedures would address auditor independence oversight functions in a prudent and responsible manner. Additionally, these procedures would describe, if applicable, the specific processes in place that monitor activities where the *de minimis* exception is invoked.

Consistent with our proposal, we are requiring that the disclosures be included in a company's annual report. However, because we believe that this information is relevant to a decision to vote for a particular director or to elect, approve or ratify the choice of an independent public accountant, we are requiring that this disclosure be included in a company's proxy statement on Schedule 14A or information statement on Schedule 14C. Since the information is included in Part III of annual reports on Forms 10–K and 10–KSB, domestic companies are able to incorporate the required disclosures from the proxy or information statement into the annual report.

Our intent is that this information be made available to investors of all registrants. However, not all registrants are required to file proxy statements. Thus, consistent with the provisions in the Act, registrants that do not issue proxy statements are required to include appropriate disclosures in their annual filing included in Form 10–K, Form 10–KSB, 20–F, Form 40–F and Form N–CSR[235] as appropriate. For the reasons noted previously in this release, we are exempting asset-backed issuers and unit investment trusts from these disclosure requirements.

With respect to investment companies, we proposed to require investment companies to make disclosure that is similar to the disclosure proposed for operating companies filing with the Commission. The proposed rule required an investment company to disclose the audit fees paid by the investment company to its accountant and the aggregate fees paid for audit related, tax services, and other services to the investment company's accountant by the investment company and its investment adviser and any entity controlling, controlled by or under common control with the adviser, that provides services to the investment company. The proposed rule also required the disclosure of the percentage, for each category presented, of fees which were subject to: (1) Direct pre-approval; (2) pre-approval pursuant to policies and procedures; and (3) pre-approval pursuant to the *de minimis* exception. Lastly, the proposed rule would require these disclosures in the annual report on proposed Form N–CSR and proxy and information statements.

Commenters[236] generally raised several significant issues related to the disclosure that would be required for investment companies. Many commenters[237] believed the fee disclosures should only be required to be made for the services provided by the accountant to the investment company registrant. One commenter[238] suggested the fees presented should be disclosed separately for those services provided to the investment company directly and those provided to the other entities in the investment company complex. Some commenters[239] believed that only those fees required to be pre-approved by the investment company's audit committee should be disclosed. Lastly, one commenter[240] expressed concern that providing percentage disclosure by type of pre-approval method (*i.e.*, direct, pursuant to policy and procedures, or the *de minimis* exception) would imply that some of these methodologies were improper.

After considering the comments, we do not believe that the fee disclosures should be limited to only those fees paid directly by the investment company registrant. We believe the fees paid by other entities in the investment company complex can have a bearing on the investment company accountant's independence. However, we are concerned that the disclosures provide meaningful information to investors. Consequently, we have determined to modify the proposed requirements.

Our final rule requires the investment company to disclose separately those

[234] As discussed previously in this release an accountant's independence is deemed to be impaired when representing the audit client before a tax court, district court and U.S. federal court of claims.

[235] We recently adopted Form N–CSR to be used by registered management investment companies to file certified shareholder reports with the Commission under the Sarbanes-Oxley Act of 2002.

[236] *See, e.g.*, letter from Investment Company Institute, dated January 13, 2003; letter from PricewaterhouseCoopers, dated January 8, 2003.

[237] *See, e.g.*, letter from KPMG, dated January 9, 2003; letter from PricewaterhouseCoopers, dated January 8, 2003; letter from Ernst & Young, dated January 6, 2003.

[238] *See,* letter from Ernst & Young, dated January 6, 2003.

[239] *See,* letter from PricewaterhouseCoopers, dated January 8, 2003; letter from Deloitte & Touche, dated January 10, 2003.

[240] *See,* letter from Investment Company Institute, dated January 13, 2003.

audit and non-audit fees from services provided directly to the investment company and those non-audit fees from services provided to all other entities in the investment company complex where the services were subject to pre-approval by the investment company's audit committee. Like an operating company, the investment company would be required to disclose the percentage of fees for each category of fees that were pre-approved pursuant to the *de minimis* exception. The final rules require disclosure of the total non-audit fees paid to the accountant, regardless of whether those fees were pre-approved by the investment company's audit committee, by the investment company, its adviser, and any entity controlling, controlled by, or under common control with the investment adviser that provides ongoing services to the fund. The final rule also will require the investment company to disclose if the audit committee has considered whether the provision of non-audit services provided to the investment company's adviser and its related parties that were not subject to the investment company audit committee's pre-approval is compatible with maintaining the principal accountant's independence.

These disclosure provisions are effective for periodic annual filings for the first fiscal year ending after December 15, 2003. We encourage issuers who have not previously issued their periodic annual filings to adopt these disclosure provisions earlier.

I. International Impact

The Commission realizes that these rules will have an international impact. It will affect foreign accounting firms that conduct audits of both foreign private issuers and foreign subsidiaries and affiliates of U.S. issuers. Through its participation in the International Organization of Securities Commissions and bilateral meetings, and through a roundtable held in Washington in December, the Commission has made a concerted effort to obtain the views of the international community of regulators, market participants and practitioners. Through this process and public consultation, the Commission has received valuable insight into various foreign regulatory regimes relating to auditor independence, and detailed and specific comments on the proposed rule.

The partner rotation requirements set forth in the proposed rule were of particular concern to the international community. The proposal, as mandated by the Act, called for the rotation of the lead and concurring partners on a five-year basis. In addition, it precluded these partners from returning to an audit of the same registrant for five years. The proposal also applied the same rotation requirement to all partners on the audit engagement team. Commentators noted that the proposed requirements could have a particularly adverse impact in foreign countries, especially in emerging countries, where there may be a more limited pool of accountants and experts conversant in U.S. GAAP and U.S. GAAS. Other commentators indicated that the proposed rotation requirements would cause firms to rotate hundreds of partners in scores of countries. The resulting widespread rotation would affect audit quality adversely, and would be hard, if not impossible, to achieve practically.

We are extending the partner rotation requirements beyond the lead and concurring partners. However, taking into account these and other comments, the rotation will not be applied as broadly as proposed. We believe that partner rotation should be a function of the level of responsibility for decisions on accounting and financial reporting issues, and the level of interaction with senior management of an issuer. Accordingly, under the final rule, the rotation requirement will apply to partners that serve the client at the issuer or parent level. It also will apply to the lead partner serving an issuer's subsidiary whose revenues constitute 20% or more of the consolidated assets or revenues of the parent. Partners serving subsidiaries whose assets and revenues fall below the threshold are not subject to rotation. The same is true for partners, other than lead partners, serving subsidiaries above the threshold.

The international community also requested that the Commission modify its approach to conflicts of interest resulting from employment relationships. The Act requires a ''cooling off'' period of one year before a member of the audit engagement team can work for a registrant in certain key positions. Under the proposed rule, the restriction applied with regard to employment by the issuer and its affiliates. Some commentators stated that the rule should only apply to partners on the audit engagement team. Commentators also indicated that extending the requirement to apply with regard to key positions at the issuer and its affiliates was overbroad, difficult to monitor, and possibly impossible to control. Moreover, we have become aware that in certain jurisdictions the labor law or jurisprudence would prohibit foreign accounting firms from imposing restrictions on the future employment opportunities of their personnel.

We agree that extending the requirement to the audit client might be difficult to monitor particularly in situations where a member of the audit engagement team begins employment with an affiliate of the issuer. Further, we recognize that in certain foreign jurisdiction it may be extremely difficult to comply with these requirements. In response to the concerns raised, the cooling-off period will apply to the lead, concurring partner or any other member of the audit engagement team, unless exempted, who provides more than ten hours of audit, review or attest services. The restriction on employment will apply only with regard to key positions at the issuer. Members of the audit engagement team, including those employed by a foreign accounting firm, will be able to take positions with the subsidiaries or affiliates of an issuer. They also may take key positions at the issuer in certain circumstances and upon the approval of the audit committee (or a similar body).

The Commission also has given consideration to comments regarding foreign requirements with respect to the provision of appraisal and valuation services. The Commission believes that the extension of these services to audit clients raises concerns with respect to the auditor's independence. The Commission is, therefore, eliminating some exemptions previously provided in this area. However, we understand that laws and regulations in certain foreign countries require auditors to provide contribution-in-kind reports or valuation services. The Commission has historically addressed conflicts between U.S. and foreign requirements regarding non-audit services on an *ad hoc* basis. Commission staff has previously afforded relief from proscriptions against appraisal and valuation services where, among other things, the auditor and issuer were able to demonstrate that the auditor was not providing an opinion on the fairness of a given transaction. The Commission will continue to take this *ad hoc* approach, and will continue to consider requests for exemptive relief from foreign auditors.

Finally, several foreign commentators noted that a prohibition on legal services could amount to a prohibition on the provision of tax services by foreign accounting firms from particular jurisdictions. It would appear that in certain jurisdictions tax services are defined as legal services and can only be rendered by persons licensed to practice law. The Commission is making clear that foreign accounting firms can

provide tax services, as appropriate, despite their local definition and local licensing requirements.

The Commission is mindful of the fact that this rule may overlap with foreign requirements designed to achieve auditor independence. The Commission has taken foreign requirements into account, and afforded accommodations to foreign accounting firms in a manner and to the extent consistent with the spirit and intent of the Act. As the rule is implemented, the Commission, as well as the PCAOB, will monitor its international impact and continue to dialogue with its foreign counterparts.

III. Paperwork Reduction Act

Certain provisions of our final amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[241] We published a notice requesting comment on the collection of information requirements in the proposing release for the rule amendments, and we submitted these requirements to the Office of Management and Budget (''OMB'') for review in accordance with the PRA.[242] The titles for the collection of information are:

(1) ''Proxy Statements—Regulation 14A (Commission Rules 14a–1 through 14a–15 and Schedule 14A)'' (OMB Control No. 3235–0059);

(2) ''Information Statements—Regulation 14C (Commission Rules 14c–1 through 14c–7 and Schedule 14C)'' (OMB Control No. 3235–0057);

(3) ''Form 10–K'' (OMB Control No. 3235–0063);

(4) ''Form 10–KSB'' (OMB Control No. 3235–0420);

(5) ''Form 20–F'' (OMB Control No. 3235–0288);

(6) ''Form 40–F'' (OMB Control No. 3235–0381);

(7) ''Regulation S–X'' (OMB Control No. 3235–0009); and

(8) ''Form N–CSR'' (OMB Control No. 3235–0570).

These regulations and forms were adopted pursuant to the Securities Act, the Exchange Act and the Investment Company Act and set forth the disclosure requirements for periodic reports, registration statements and proxy and information statements filed by companies to ensure that investors are informed. The hours and costs associated with preparing, filing and sending these forms constitute reporting and cost burdens imposed by each collection of information. 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. Compliance with the requirements will be mandatory. There will be no mandatory retention period for the information disclosed, and responses to the requirements will not be kept confidential.

Regulation S–X is the central repository for rules related to the form and content of financial statements with the Commission. Regulation S–X, however, does not direct registrants to file financial statements or to collect financial data. Regulation S–X indicates what should be in the financial statements and how financial statements should be presented when they are required to be filed by other rules and forms under the securities laws. Burden hours and costs associated with the preparation of financial statements in accordance with Regulation S–X are allocated to the rules or forms that require the financial statements to be filed. Because Regulation S–X does not require any information to be filed with the Commission, we previously have assigned one burden hour to Regulation S–X for administrative convenience to reflect the fact that this regulation does not impose any direct burden on companies.

A. Summary of Amendments

1. Communication With Audit Committees

As required by Section 204 of the Sarbanes-Oxley Act, we are amending Regulation S–X to require each public accounting firm registered with the Board that audits an issuer's financial statements to report to the issuer's or investment company's audit committee: (1) All critical accounting policies and practices used by the issuer, (2) all material alternative accounting treatments within GAAP that have been discussed with management, including the ramifications of the use of the alternative treatments and the treatment preferred by the accounting firm, (3) other material written communications between the accounting firm and management of the issuer such as any management letter or schedule of ''unadjusted differences,'' and (4) in the case of registered investment companies, all non-audit services provided to certain entities in the investment company complex that were not pre-approved by the investment company's audit committee. The required reports need not be in writing but the report is required to be presented to the audit committee before the auditor's report on the financial statements is filed with the Commission.[243]

2. Disclosures of Audit and Non-Audit Services

Item 9 of Schedule 14A requires the disclosure of certain information regarding the registrant's relationship with the independent auditor of the company's financial statements when there is a solicitation relating to: (1) A meeting at which directors to the company's board of directors are to be elected (or the solicitation of consents or authorizations in lieu of such a meeting) or (2) the election of the auditor, or the approval or ratification of the company's selection of the auditor. We are amending paragraph (e) of Item 9 to provide more detailed information regarding the categories of fees paid by the registrant to the auditor and to inform investors about the critical role that audit committees play in assuring the auditor's independence. We believe that the disclosure will allow investors to better assess an auditor's independence and certain activities of an audit committee.

Item 9(e) previously required disclosure of fees billed by the auditor in the last fiscal year, with the fees broken down into three categories: audit fees, financial information systems design and implementation fees, and all other fees. The final rules add disclosure of two categories (tax fees and audit-related fees), while eliminating one category (financial information systems design and implementation), and require disclosure of one more past year of each of these fees. Because these fees are already being disclosed, repeating the prior year's disclosures for comparison purposes should not increase significantly a registrant's compliance burden. In addition, breaking tax fees and audit-related fees out of the ''all other'' category of fees currently being disclosed should not result in any significant incremental burden.

With respect to investment companies, the final rules also will require disclosure of all non-audit fees paid to the investment company's

[241] 44 U.S.C. 3501 *et seq.*

[242] 44 U.S.C. 3507(d) and 5 CFR 1320.11.

[243] *See,* Release No. 33–8040, Dec. 12, 2001 (66 FR 65013). In this release the Commission provided cautionary advice regarding disclosure about critical accounting policies. *See also,* Release No. 33–8098, May 10, 2002, (67 FR 35620). In this release the Commission proposed rules to require disclosures that would enhance investors' understanding of the application of companies' critical accounting policies. The proposed disclosures would focus on accounting estimates a company makes in applying its accounting policies and the initial adoption by a company of an accounting policy that has a material impact on its financial presentation.

accountant by any entity in the investment company complex and whether the audit committee has considered those non-audit services in evaluating the auditor's independence from the investment company. Since these disclosures exist in some form currently, there should be no significant incremental disclosure burden.

Under the final rules, registrants also will be required to disclose any policies and procedures adopted by an audit committee to be followed for pre-approval of services to be performed by the accounting firm in the event that the audit committee does not expressly pre-approve the particular engagements.[244] In addition, the final rules require registrants to disclose what percentage of fees in each of the categories noted above (audit, audit-related, tax, and other) relate to engagements for which the pre-approval requirement was waived under the *de minimis* exception.[245]

Some companies that file Forms 10–K or 10–KSB are not subject to the proxy disclosure requirements. These companies, therefore, now will be required to present the required disclosures in the Form 10–K or 10–KSB. Foreign private issuers that file Form 20–F and Canadian companies that file Form 40–F generally are not subject to the proxy disclosure requirements and, therefore, will be required to present the required disclosures on Form 20–F or Form 40–F. Some investment companies do not regularly file proxy or information statements. These investment companies will, therefore, now be required to disclose this information in the investment company's annual report on Form N–CSR.

B. Summary of Comment Letters and Revisions to Proposals

We requested comment on the PRA analysis contained in the proposing release. Two commenters responded generally that they believed the burden estimates seemed unrealistic.[246] However, neither commenter provided supporting data, revised burden hour estimates or other information to support their views. One of these commenters believed that the 25% allocation to outside professionals was unrealistically low.[247] As we have mentioned in many recent releases, we believe that the allocation of 75% of the burden to internal staff and 25% of the burden to outside professionals accurately reflects current practice for proxy and information statements and annual reports for domestic issuers.[248] In particular, the disclosure requirements regarding principal accountant's fees should involve information that already is readily available to internal staff of the registrant. We have not concluded that our burden hour estimates for purposes of the Paperwork Reduction Act should be changed, although we will continue to monitor registrant response to our burden hour estimates.

In addition, we have made several revisions to the proposals. However, we do not believe these changes will significantly change our previous estimates of the burden on registrants from the amendments.

1. Communication With Audit Committees

We have made one change to the proposed rules concerning communication with audit committees. We proposed rules that would have required public accounting firms performing the audit for an issuer or investment company to report to the audit committee of the issuer or investment company, prior to the filing of such audit with the Commission, all alternative treatments of financial information within GAAP that have been discussed with management of the issuer or investment company. In response to commenters, the final rules only require reporting of material alternative treatments of financial information within GAAP that have been discussed with management of the issuer or investment company. This change should aid in focusing the reports to audit committees on important matters and not dilute the usefulness with discussion of less important matters. With respect to investment companies, we have added a requirement to disclose all non-audit services provided to the investment company complex that were not pre-approved by the investment company's audit committee. However, we are changing the requirement to discuss these matters from before each filing, which could have been as frequent as monthly, to annually, with an update, if necessary.

2. Disclosures of Audit and Non-Audit Services

We have made three minor changes in response to commenters' concerns regarding the rules requiring disclosure of audit and non-audit services. The first change clarifies the audit fee category to specifically include services that normally are provided by the accountant in connection with statutory and regulatory filings. The second change relates to tax fees and specifies that registrants will be required to describe each subcategory of services comprising the fees disclosed under the ''tax fees'' category, similar to the requirement for the ''audit-related fees'' category. Finally, the third change relates to the requirement to disclose the percentage of audit fees, audit-related fees, tax fees, and all other fees that were approved by the audit committee. The proposed rule would have required this disclosure for all fees derived from engagements that were: (1) Approved by the issuer's or investment company's audit committee before the accountant was engaged by the issuer or investment company, (2) entered into pursuant to pre-approval policies and procedures established by the audit committee of the issuer or investment company, provided the audit committee was informed of each service, and (3) for which the pre-approval requirement was waived under the *de minimis* exception. The final rules will only require disclosure of the percentage of audit fees, audit-related fees, tax fees, and all other fees for which the pre-approval requirement was waived under the *de minimis* exception.

With respect to investment companies, we have made three changes to the rule. The first change requires the fund to disclose all non-audit fees paid by entities in the investment company complex only to the extent those non-audit services relate to the operations or financial reporting of the investment company. The second change requires investment companies to disclose the aggregate non-audit fees paid to the auditor by any entity in the investment company complex. The third change requires the investment company to disclose if the audit committee has considered whether the provision of non-audit services by the accountant to the investment company complex is compatible with maintaining the accountant's independence.

[244] 17 CFR 210.2–01(c)(7)(A) and (B).

[245] 17 CFR 210.2–01(c)(7)(C).

[246] *See, e.g.*, letter from Deloitte & Touche LLP, dated January 10, 2003; letter from Lynn E. Turner, dated January 13, 2003.

[247] *See, e.g.*, letter from Deloitte & Touche LLP, dated January 10, 2003.

[248] *See, e.g.*, Release No. 33–8098, May 10, 2002, (67 FR 35620); Release No. 33–8106, Jun. 17, 2002, (67 FR 42914); Release No. 33–8124, Aug. 28, 2002, (67 FR 57276); Release No. 33–8128, Sept. 5, 2002, (67 FR 58480); Release No. 33–8138, Oct. 22, 2002, (67 FR 66208); Release No. 33–8144, Nov. 4, 2002, (67 FR 68054); Release No. 34–46778, Nov. 6, 2002, (67 FR 69430); Release No. 33–8154, Dec. 2, 2002, (67 FR 76780); Release No. 33–8160, Dec. 10, 2002, (67 FR 77594); and Release No. 33–8173, Jan. 8, 2003.

C. Revisions to Reporting and Burden Estimates

1. Communication With Audit Committees

As discussed in the proposing release, we believe that GAAS currently require discussions between the auditors and the audit committee of significant unusual, controversial, or emerging accounting policies, of the process used by management to select certain estimates, and of disagreements with management over certain accounting matters.[249] We further believe that audit committees generally are aware of management's letter making representations to the auditors, which the auditor uses in completing the audit of the issuer's financial statements.[250] Audit committees also should be aware of ''unadjusted differences,'' [251] if any, as a result of the enactment of Section 401 of the Sarbanes-Oxley Act, which added Section 13(i) to the Securities Exchange Act of 1934 (''Exchange Act'').[252] Under new Section 13(i) of the Exchange Act, therefore, there should be no material ''unadjusted differences.'' In the case of investment companies, we believe auditors already are reporting non-audit services provided to the investment company complex annually and some routinely provide more frequent updates at the request of the audit committee.[253] Because of these GAAS and legal provisions, we believe that the final rules regarding auditor reports to audit committees will not increase significantly the burden hours on accounting firms or registrants.

2. Disclosures of Audit and Non-Audit Services

While we have made some modifications to the proposals relating to disclosure of audit and non-audit services, we do not believe these changes will have a significant effect on the total amount of burden hours for preparing the forms. Accordingly, we believe that our estimates of the burden articulated in the proposing release have not changed as a result of modifications contained in the final rules.

a. *Proxy and Information Statements.* We estimate that the incremental disclosure changes would impose, on average, two additional burden hours on each of the 7,661 filers of Schedule 14A, or an aggregate 15,322 additional burden hours. We further estimate that approximately 75% of the extra burden hours, or approximately 11,492 hours, would be expended by internal staff and the remaining 25%, or 3,830 hours, would be expended by outside professionals who are retained by the filer. Assuming that outside professional costs would be an average of $300 per hour, the aggregate annual professional costs would be $1,149,000. Similarly, we estimate that these disclosures would impose, on average, two additional burden hours on each of the 464 filers of Schedule 14C, or an aggregate 928 additional burden hours. Using the same allocation of hours and cost estimate of professional fees as for Schedule 14A, we estimate that 696 hours would be expended by internal staff and the remaining 232 hours would be for outside professional assistance, producing an outside professional cost of $69,600.

b. *Annual Reports on Form 10–K.* We estimate that the incremental disclosure changes will impose, on average, two additional burden hours per year on each of the 8,484 filers of Form 10–K. 6,676 of those filers, however, will provide the information under Schedule 14A and 209 of those filers would provide the information under Schedule 14C.[254] The burden hours for the disclosure by these filers therefore have been assigned to Schedule 14A and Schedule 14C, respectively. The burden imposed on the remaining 1,599 filers is being assigned to Form 10–K. This results in 3,198 (2 hours × 1,599 filers) additional burden hours for Form 10–K. We further estimate that approximately 75% of the extra burden hours, or approximately 2,399 hours, will be expended by internal staff and the remaining 25%, or 799 hours, will be expended by outside professionals. Assuming that outside professional costs average $300 per hour, the estimated aggregate annual professional costs are $239,700.

c. *Annual Reports on Form 10–KSB.* We estimate that the incremental disclosure changes will impose, on average, two additional burden hours per year on each of the 3,820 filers of Form 10–KSB. 985 of those filers, however, will provide the information under Schedule 14A and 255 of those filers will provide the information under Schedule 14C. The burden hours for the disclosure by these filers have been assigned to Schedule 14A and Schedule 14C, respectively. The burden imposed on the remaining 2,580 filers is being assigned to Form 10–KSB. This results in 5,160 (2 hours × 2,580 filers) additional burden hours. We further estimate that approximately 75% of the extra burden hours, or approximately 3,870 hours, will be expended by internal staff and the remaining 25%, or 1,290 hours, will be expended by outside professionals. Assuming that outside professional costs average $300 per hour, the estimated aggregate annual professional costs are $387,000.

d. *Annual Reports by Foreign Private Issuers on Form 20–F.* We estimate that the incremental disclosure changes will impose, on average, two additional burden hours per year on each of the 1,194 filers of Form 20–F, or 2,388 additional burden hours. We further estimate that approximately 25% of the extra burden hours, or approximately 597 hours, will be expended by internal staff and the remaining 75%, or 1,791 hours, will be expended by outside professional costs associated with reviewing the disclosures because this form is prepared by foreign private issuers who rely more heavily on outside counsel for assistance. Assuming that outside professional costs average $300 per hour, the estimated aggregate annual professional costs are $537,300.

e. *Reports by Certain Canadian Issuers on Form 40–F.* We estimate that the incremental disclosure changes will impose, on average, two additional burden hours per year on each of the 134 filers of Form 40–F, or 268 additional burden hours. Consistent with our treatment of foreign private issuers filing Form 20–F, we further estimate that approximately 25% of the extra burden hours, or approximately 67 hours, will be expended by internal staff and the remaining 75%, or 201 hours, will be expended by outside professionals. Assuming that outside professional costs average $300 per hour, the estimated aggregate annual professional costs are $60,300.

f. *Form N–CSR.* We estimate that the additional disclosure changes will impose, on average, 1.5 additional burden hours per year on each of the anticipated 3,700 filers of Form N–-CSR. This results in 5,550 (1.5 hours × 3,700 filers) additional burden hours. We

[249] *See,* SAS 61, ''Communication with Audit Committees or Others with Equivalent Authority and Responsibility,'' AU § 380.

[250] SAS No. 85, ''Management Representations,'' AU § 333.

[251] *See,* SAS No. 89, ''Audit Adjustments,'' AU § 333.

[252] Each financial report that contains financial statements, and that is required to be prepared in accordance with (or reconciled to) generally accepted accounting principles under this title and filed with the Commission shall reflect all material correcting adjustments that have been identified by a registered public accounting firm in accordance with generally accepted accounting principles and the rules and regulations of the Commission.

[253] *See,* Independence Standards Board, ''Independence Discussions with Audit Committees,'' *Independence Standard No. 1* (Jan. 1999).

[254] These numbers are obtained by reviewing the number of filers that filed a Form 10–K and Schedule 14A or Schedule 14C, respectively, between October 1, 2001 and September 30, 2002.

estimate that the cost of these burden hours is $81 per hour, resulting in aggregate internal costs of $449,550.[255] Further, we estimate that this additional disclosure will require 0.5 hours in professional review by outside counsel at an average rate of $300 per hour, resulting in an estimated aggregate annual outside professional costs of $555,000.

IV. Cost—Benefit Analysis

We are sensitive to the costs imposed by and benefits derived from our rules, and we have identified certain costs and benefits of these rules. Additionally, certain of these costs are imposed by Congressional mandate through the enactment of the Sarbanes-Oxley Act.

A. Background

The Sarbanes-Oxley Act was enacted on July 30, 2002. Title II to that Act adds Sections 10A(g) through 10A(l) to the Securities Exchange Act of 1934 (''Exchange Act'') and requires that the Commission, within 180 days of enactment, adopt rules to carry out each of those sections.[256]

The final rules:

- Revise the Commission's regulations related to the non-audit services that, if provided to an audit client, would result in the accounting firm being deemed to lack independence with respect to the audit client; [257]
- Require that an issuer's audit committee pre-approve all audit and non-audit services provided to the issuer by the independent accountant; [258]
- Prohibit certain partners on the audit engagement team from providing audit services to the issuer for more than five or seven consecutive years, depending on the partner's involvement in the audit (smaller accounting firms may be exempted from this requirement); [259]
- Prohibit an accounting firm from auditing an issuer's financial statements if a person in a financial reporting oversight role of that issuer had been a member of the accounting firm's audit engagement team within the one-year period preceding the commencement of audit procedures; [260]
- Require that the auditor of an issuer's financial statements report certain matters to the issuer's audit committee, including ''critical'' accounting policies and practices used by the issuer; [261] and
- Require disclosures to investors of information related to audit and non-audit services provided by, and fees paid by the issuer to, the auditor of the issuer's financial statements.[262]

In addition, under the final rules, an accountant will be deemed to be not independent from an audit client if any ''audit partner'' receives compensation based directly on selling engagements to that client other than audit, review, or attest services. We have narrowed the final rule by exempting accounting firms with fewer than ten partners and fewer than five audit clients from this provision.[263] While many of the final rules respond directly to the provisions of Title II of the Sarbanes-Oxley Act, certain of the rules go beyond the specific provisions of the Act. These provisions include:

- Applying the partner rotation rules to additional ''audit partners'';
- Applying the one-year cooling off period to persons in a financial reporting oversight role with the issuer; and
- Prohibiting an accounting firm from compensating an audit partner for directly selling non-audit services to an audit client.

B. Potential Benefits of the Final Rules

Potential benefits resulting from the final amendments include increased investor confidence in the independence of accountants, in the audit process, and in the reliability of reported financial information. As discussed below, clearer auditor independence regulations should provide investors with comfort that auditors are placing the interests of investors over financial or personal incentives. The final rules mandating that accountants communicate certain matters to audit committees should benefit investors by enhancing the opportunities for meaningful audit committee oversight of the financial reporting process. Investors also will benefit from the enhanced disclosure of the non-audit services provided by, and fees paid to, the accounting firm that audits the company's financial statements, and from better disclosure of the audit committee's role in approving the provision of audit and non-audit services by the accounting firm that audits the company's financial statements. We believe that these factors could improve the efficiency of the markets and result in a lower cost of capital.

1. Auditor Independence

The amendments are intended to facilitate the independence of the accountant from management in the following ways:

- Providing clearer definition of the types of non-audit services that would be deemed to impair an auditor's independence;
- Requiring that each engagement of the accountant to perform audit or non-audit services for the company be pre-approved by the audit committee, which serves as the representative of investors;
- Requiring the ''rotation'' of ''audit partners'' on the audit engagement team to assure a periodic fresh look at the accounting and auditing issues related to the issuer's financial statements;
- Providing that the accountant's independence would be deemed to be impaired if an ''audit partner'' is compensated directly for selling non-audit services or products to an audit client. This provision should mitigate the concerns that an accountant might be viewed as compromising accounting judgments in order not to jeopardize the potential for increased income from the act of selling non-audit services to the audit client; and
- Requiring a ''cooling off'' period between working on the audit engagement team and joining the client in a ''financial reporting oversight role'' in order to assure that personal relationships and the new member of management's knowledge of the audit plan do not negatively impact the audit process.

Strengthening auditor independence should provide investors with more confidence that the accountants are playing their ''gatekeeper'' role related to companies'' financial reporting and provide further assurance that the financial condition, results of operations, and cash flows of companies are fairly reflected in their financial reports thereby allowing public companies less costly access to the capital markets.

The final rules specify that ''audit partners'' who are compensated for cross-selling non-audit services are deemed to be not independent with respect to the audit client. This will further enhance the independence of the audit function since the audit partner's focus will be on the conduct of the audit rather than on efforts to sell other engagements to the audit client. The

[255] *See,* Securities Industry Association, *Report on Management & Professional Earnings in the Securities Industry 2002* (2002).

[256] Section 208(a) of the Sarbanes-Oxley Act of 2002.

[257] *See,* Section 201 of the Sarbanes-Oxley Act.

[258] *See,* Section 202 of the Sarbanes-Oxley Act.

[259] *See,* Section 203 of the Sarbanes-Oxley Act.

[260] *See,* Section 206 of the Sarbanes-Oxley Act.

[261] *See,* Section 204 of the Sarbanes-Oxley Act.

[262] *See, generally,* Section 202 of the Sarbanes-Oxley Act; Section 10A(i)(2) of the Exchange Act, 15 U.S.C. 78j–1(i)(2).

[263] *See, e.g.*, letter from U.S. Small Business Administration's Office of Advocacy, January 13, 2002.

danger inherent in compensating audit partners for cross-selling non-audit services is that it might create a temptation for accountants to compromise the quality of the audit in order to maintain their relationship with management to whom they wish to cross-sell such services.

2. Auditor Reports to Audit Committees

The final rules require that each public accounting firm registered with the Board that audits an issuer's financial statements report specified information to the issuer's audit committee, including: (1) All critical accounting policies and practices used by the issuer, (2) all material alternative accounting treatments within GAAP that have been discussed with management, (3) other material written communications between the accounting firm and management of the issuer, such as any management letter or schedule of ''unadjusted differences,'' and (4) in the case of registered investment companies, all non-audit services provided to entities in the investment company complex that were not pre-approved by the investment company's audit committee.

The report by the Senate Committee on Banking, Housing, and Urban Affairs on the bill that later became the foundation for the Sarbanes-Oxley Act, in addressing the need for such reports from the accountant to the audit committee, stated, in part:

> The Committee believes that it is important for the audit committee to be aware of key assumptions underlying a company's financial statements and of disagreements that the auditor has with management. The audit committee should be informed in a timely manner of such disagreements, so that it can independently review them and intervene if it chooses to do so in order to assure the integrity of the audit.[264]

Almost eight months before passage of the Sarbanes-Oxley Act, in December 2001, we issued cautionary advice regarding the disclosure in the Management's Discussion and Analysis [265] section of its annual report of those accounting policies that management believes are most critical to the preparation of the issuer's financial statements.[266] As part of that cautionary advice, we stated:

> Prior to finalizing and filing annual reports, audit committees should review the selection, application and disclosure of critical accounting policies. Consistent with auditing standards, audit committees should be apprised of the evaluative criteria used by management in their selection of the accounting principles and methods. Proactive discussions between the audit committee and the company's senior management and auditor about critical accounting policies are appropriate.[267]

Communications with the audit committee about such policies facilitate the audit committee's oversight of the financial reporting process. Investors should benefit by the audit committee being better informed and, thus, in a position to better challenge what it may view as non-typical, aggressive, or improper applications of GAAP used by management to enhance or manipulate reports of the company's financial results or financial condition.

3. Enhanced Disclosures About the Services Provided by Auditors to Registrants

Investors will receive more detailed information about:

- Any policies and procedures adopted by an audit committee for pre-approving audit and non-audit services provided by the independent accountant,
- The fees paid by the registrant to the accountant in each of the last two years for audit, audit-related, tax, and all other services,[268] and
- The percentage of fees in each of those categories where the audit committee used the *de minimis* exception.

These disclosures will provide greater transparency to investors of certain aspects of the auditor-client relationship. Providing better, more complete information in cases where non-audit services occur allows investors to determine for themselves whether there are concerns related to the auditor's independence. It also may allow investors to ask more direct and useful questions of management and directors regarding their decisions to engage the accountants for such services.

C. Potential Costs of the Final Rules

1. Auditor Independence

Changes in our auditor independence rules may impose costs on accounting firms and on any issuers that engage, or would like to consider engaging, the accountant of an issuer's financial statements to perform non-audit services.

a. *Non-audit services.* According to the information available to the staff in 2000, approximately 12,600 registrants did not purchase any consulting services from the auditor of their financial statements, and 4,100 registrants reported purchasing such services.[269] Based on the scrutiny that these services have received over the past year, the Commission believes that the number of companies purchasing non-audit services from their accountant might have decreased further.

The current auditor independence rules state that the performance of certain non-audit services will be deemed to impair an auditor's independence. The final rules, in some cases, redefine those services and add one more item, ''expert services,'' to the list of prohibited services. These changes may impact the competitive markets for these services. Audit clients are precluded from engaging their independent accountants to perform services in the categories of bookkeeping services, financial systems design and implementation services, appraisal and valuation services, actuarial services, internal audit outsourcing services, management functions, human resources, broker-dealer, investment adviser or investment banking services, legal services and expert services. These companies may incur costs from having to use a separate vendor for such services resulting in the possible loss of any benefits of having a single provider for both audit and non-audit services. Companies also may incur costs in locating a new vendor and developing a business relationship with that vendor. In addition, companies may incur costs from not being able to retain their preferred provider of non-audit services, if that preferred provider is their independent accountant. The difference in value between a preferred provider and a second choice may be substantial, particularly if the preferred provider has relatively rare service offerings or service offerings that are particularly well suited to the needs of the company.

The final rules may cause accountants to lose one or more sources of revenue because they will no longer be able to

[264] Report of the Senate Committee on Banking, Housing, and Urban Affairs, ''Public Company Accounting Reform and Investor Protection Act of 2002,'' Senate Report 107–205, 107th Cong., 2d Sess., at 21 (July 3, 2002).

[265] Item 303 of Regulation S–K (17 CFR 229.303), which requires disclosure about, among other things, trends, events or uncertainties known to management that would have a material impact on reported financial information.

[266] Release No. 33–8040, Dec. 12, 2001, (66 FR 65013).

[267] Id. (footnotes omitted).

[268] In the case of an investment company, the investors will receive this information for the investment company registrant and separately, for all other entities in the investment company complex where the services were subject to pre-approval by the investment company's audit committee.

[269] *Id.;* 65 FR at 43185.

sell certain non-audit services to their audit clients. Additionally, accounting firms may incur additional costs to market these services with non-audit clients as well as additional learning costs to familiarize themselves with the operations of those non-audit clients. Finally, to the extent that there exist economies of scope in the provision of audit and non-audit services (as, for example, through the use of shared knowledge management systems and other infrastructure) and to the extent that the preclusion of certain non-audit services to audit clients results in the exit of personnel who provide such services from accounting firms, there may be an increase in the cost of both audit and non-audit services.

We believe, however, that in view of the statements by the largest four accounting firms, and others, that they no longer intend to provide internal audit outsourcing services and financial system design and implementation services to audit clients,[270] the cost associated with the adoption of the final rules may be limited. Also, to the extent that the provision of non-audit services is merely redistributed among the firms, there would be no net loss of revenue to public accounting firms as a whole.

b. *Audit Committee Pre-approval of Services.* Under the final rules, all auditing and non-audit services to be provided by the independent accountant must be pre-approved by the issuer or investment company's audit committee.[271] There may be incremental costs associated with audit committees performing this function. Such costs might include more frequent committee meetings, an increased workload on audit committee members, and having the audit committee's legal counsel review the audit committee's draft policies and procedures for engaging the independent accountants for non-audit services. The increased burden on audit committee members might result in the need to increase their compensation, resulting in additional costs to issuers or investment companies. Some of these costs may be mitigated by the provisions in the Act and the final rules that allow the audit committee to delegate to one or more audit committee members the authority to grant pre-approvals of these services.[272]

Inadvertent violations of the Act and the final rules that would add to the costs of the rules also may be mitigated by the *de minimis* exception to the pre-approval requirement.[273] This exception applies if: (1) The aggregate amount of the non-audit services is not more than five percent of the total amount of revenues paid by the issuer to the accountant during the fiscal year in which the non-audit services were provided,[274] (2) at the time of the engagement the issuer did not recognize the services to be non-audit services, and (3) the services are approved by the audit committee prior to the completion of the audit.[275]

We also believe that as a result of the Commission's audit committee disclosure requirements adopted in 1999,[276] prior disclosures related to the involvement of the audit committee in recommending or approving changes in independent accountants and the resolution of disagreements between management and the accountants,[277] and professional standards that require communications between the accountant and the audit committee on auditor independence and other issues,[278] many companies currently have audit committees that carefully evaluate the engagement of accountants to perform non-audit services. Accordingly, we believe that the incremental costs associated with these rules will not be substantial.

c. *Rotation of Partners on the Audit Engagement.* Under the final rules, no ''audit partner'' will serve on an audit engagement team for more than seven consecutive years, and the ''lead'' and ''concurring'' partners will be prohibited from serving for more than five consecutive years. Current professional requirements state that the ''lead'' partner should be replaced at least once every seven years.[279] The proposed rules would have required any partner on the audit engagement team of an issuer and its significant subsidiaries to rotate after five years. Many commenters believed that the reach of the proposal was too deep, particularly for individuals that have limited participation in the audit. The final rules require fewer partners to rotate than under the proposal. Under the final rules, the lead partner, who has primary responsibility for the audit, along with the concurring partner, must rotate after five years. Other audit partners at the issuer,[280] or a subsidiary of the issuer whose assets or revenues constitute 20% or more of the consolidated assets or revenues of the issuer must rotate after seven years. Accounting firms with fewer than five audit clients and fewer than ten partners may be exempted from the partner rotation requirements if the Board conducts a special review of each of the firm's audit engagements for audit clients at least once every three years. In total, the final rule expands the rotation requirements to cover a greater number of partners than under the current professional requirements.

A number of commenters expressed concern that under the proposed rules many small accounting firms would be unable to meet the partner rotation requirements and may be driven out of

[270] Report of the Senate Committee on Banking, Housing, and Urban Affairs, ''Public Company Accounting Reform and Investor Protection Act of 2002,'' Senate Report 107–205, 107th Cong., 2d Sess., at 18 (July 3, 2002). *See* also letter from HarborView Partners LLC, dated December 4, 2002.

[271] Section 301 of the Sarbanes-Oxley Act of 2002 requires the Commission to direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that does not meet certain criteria, including having an audit committee that performs certain functions. *See* Section 10A(m) of the Exchange Act, 15 U.S.C. 78j–1(m), and Release No. 33–8173 (Jan. 8, 2003). The Sarbanes-Oxley Act defines ''audit committee'' to be ''(A) a committee (or equivalent body) established by and amongst the board of directors of an issuer for the purpose of overseeing the accounting and financial reporting processes of the issuer and audits of the financial statements of the issuer; and (B) if no such committee exists with respect to an issuer, the entire board of directors of the issuer.'' Section 205(a) of the Sarbanes-Oxley Act, which, among other things, adds Section 3(a)(58) to the Exchange Act.

[272] Section 202 of the Sarbanes-Oxley Act; Section 10A(i)(3) of the Exchange Act, 15 U.S.C. 78j–1(i)(3).

[273] Section 202 of the Sarbanes-Oxley Act; Section 10A(i)(1)(B) of the Exchange Act, 15 U.S.C. 78j–1(i)(1)(B).

[274] In the case of an investment company, the five percent threshold is calculated based on the services provided to the investment company complex that were subject to the pre-approval requirements for the investment company's audit committee.

[275] *Id.*

[276] Item 306 of Regulation S–K (17 CFR 229.306), and Item 306 of Regulation S–B (17 CFR 228.306); see generally, Release No. 34–42266, Dec. 22, 1999, (64 FR 73389). These disclosure requirements are discussed *supra,* in Section II.C. of this release.

[277] Item 4 of Form 8–K, 17 CFR 249.308 and Item 304 of Regulation S–K, 17 CFR 229.304, which require disclosure of ''whether the decision to change accountants was recommended or approved by: (A) Any audit or similar committee of the board of directors, if the issuer has such a committee; or (B) the board of directors, if the issuer has no such committee'' and ''whether any audit or similar committee of the board of directors, or the board of directors, discussed the subject matter of each of such disagreements with the former accountant * * *.'' Item 304(a)(1)(iii)(A), (iii)(B), and (iv)(B). 17 CFR 229.304(a)(1)(iii)(A), (iii)(B) and (iv)(B). For small business issuers, Item 304(a)(1)(iii) of Regulation S–B, 17 CFR 228.304(a)(1)(iii) requires disclosure of ''whether the decision to change accountants was recommended or approved by the board of directors or an audit or similar committee of the board of directors.''

[278] *See, e.g.*, SAS No. 61, as amended by SAS No. 89 and No. 90, ''Communications With Audit Committees,'' AU §380; Independence Standards Board, ''Independence Discussions with Audit Committees,'' *Independence Standard No. 1* (Jan. 1999).

[279] *See,* AICPA, SEC Practice Section, *Requirements of Members,* at item e. The membership requirements are available online at *http://www.aicpa.org/members/div/secps/require.htm.*

[280] In the case of investment companies, other audit partners would include all audit partners working on an investment company registrant.

business, potentially burdening the ability of smaller companies to retain auditors and access the public markets. We have attempted to mitigate this effect by providing an exemption for smaller accounting firms in the final rules.[281]

Without the exemption, clients of many of the smaller accounting firms would have to change auditors every five years because their incumbent auditor would not be able to meet the partner rotation requirements. This would have imposed marketing and client-specific learning costs on the accounting firms and costs on clients to familiarize the new accountant with their operations.

Costs associated with the periodic replacement of partners might include more frequent company-specific training, conducted by both the accounting firm and the audit client, as new partners join the audit engagement team. For example, the new partners will need to learn the company's accounting and financial reporting procedures, controls and familiarize themselves with key personnel. The final rules also might result in incremental costs related to some partners being required to travel extensively, relocate from one part of the country to another, or from one country to another.[282]

The costs related to these rules will vary based on the proximity of an accounting firm's audit clients, the concentration of the firm's practice within an industry, and the availability of partners to whom the work may be redistributed, and similar factors. We note that these costs may be passed on to issuers in the form of higher audit fees.

Had the proposed rules been adopted, another potential impact would have been the impact on the specialization of accounting firms within each industry. To minimize partners' costs of learning new businesses, accounting firms have an incentive to specialize in certain industries. This, potentially, could have had the effect of creating oligopolies within each industry and could have adversely affected competition among accounting firms.

d. *One-Year Cooling Off Period.* The final rules indicate that an accounting firm is deemed to be not independent with respect to an audit client if a former member of the audit engagement team is employed by the issuer in a ''financial reporting oversight role'' unless the individual had not been a member of the audit engagement team during the one year period preceding the initiation of the audit.[283]

Currently, when a former professional employee of an accounting firm joins an audit client within one year of leaving the firm, and the individual has significant interaction with the accounting firm's audit engagement team, professional standards require the accounting firm to perform procedures to assure that the individual's knowledge of, or relationships with, the accounting firm do not adversely influence the quality of the audit.[284] These procedures include modifying the audit plan to adjust for the risk that the individual would be able to circumvent key aspects of the audit, and assuring that the people on the audit engagement team have the stature and objectivity not to be influenced by their former partner or co-employee and to have the appropriate level of skepticism when evaluating the individual's representations and views.

Costs might occur, however, from the company being required to delay the hiring, or not being able to hire, the individual that it believes is the most qualified person to perform a ''financial reporting oversight role'' at the company. This may add to recruitment costs or result in less efficient operations. Such costs are difficult to estimate and vary from one company to another. However, in response to several commenters' concerns regarding the reach of the proposed rules, the final rules limit the prohibitions based on the individual's role on the audit engagement team. These costs might be ameliorated in unusual circumstances due to the exception provided for emergency and unusual circumstances.

e. *Compensation.* The final rules provide that an accountant is deemed to be not independent with respect to an audit client if any ''audit partner'' earns or receives compensation in consideration of directly selling engagements to provide any services to that client other than audit, review or attest services. The final rules differ from the proposed rules in three notable respects. First, the proposed rules also would have provided that any accountant is not independent with respect to an audit client if an audit partner earns or receives compensation based on the selling or performance of engagements with an audit client to provide any products or services other than audit, review or attest services. The final rule applies only to compensation based on the direct selling of engagements in the independence determination. Second, several commenters noted that, as proposed, the rules would have precluded a ''specialty'' partner from receiving compensation when he or she sold services in his or her specialty area. The final rules address this concern because they apply to ''audit partners'' rather than all partners who are members of the audit engagement team. Third, several commenters indicated the compensation rules might be particularly difficult for smaller accounting firms. To address this concern, the final rules include an exemption for accounting firms with fewer than five audit clients and fewer than ten partners.

Despite these revisions, the provision might affect the compensation plans of those firms that currently reward audit partners of the firm for selling non-audit services to their audit clients. The final rules may result in those revenues being allocated to other persons within the accounting firm. Absent this incentive, auditors may be less inclined to inform issuers of ways to improve their performance or condition through non-audit services. We do not expect, however, that there would be any incremental costs to the firm or to the client.

2. Auditor Reports To Audit Committees

The final rules are identical to those proposed, with two exceptions. The proposed rules would have required accounting firms to report to audit committees all alternative accounting treatments within GAAP that have been discussed with management, including the ramifications of the use of the alternative treatments and the treatment preferred by the accounting firm. The final rules only require accounting firms to report material alternative treatments, which should aid in focusing the reports to audit committees. The final rules add a specific requirement related to investment companies that requires auditors to disclose to the investment company's audit committee all non-

[281] According to data provided by the SECPS, out of 767 accounting firms with audit clients, 462 firms are eligible for the exemption from partner rotation.

[282] For example, one commenter estimated that on certain large engagements, the proposed rotation requirements would result in an average annual incremental cost of $1,250,000; *see,* letter from Deloitte & Touche LLP dated January 10, 2003. Another commenter estimated the cost to be as much as $2,000,000 per year for large registrants; *see,* letter from KPMG dated January 9, 2003.

[283] In the case of investment companies, the cooling off period would extend not only to positions at the investment company, but also to positions at any entity in the investment company complex that is directly responsible for the operations or financial reporting of the investment company.

[284] Independence Standards Board, ''Employment with Audit Clients'' *Independence Standard No. 3* (July 2000).

audit fees paid to the accountant by any entity in the investment company complex that was not subject to pre-approval by the investment company's audit committee.

Because of existing GAAS and legal provisions,[285] we believe that the final rules regarding accountants' reports to audit committees will not significantly increase costs for accounting firms or registrants. Any such costs may arise from the timing of the communications,[286] which must occur before the auditor's report is filed with the Commission. We also believe limiting the reporting requirement to only material alternative treatments will reduce unnecessary costs. The required reports need not be in writing, but the report is required to be presented to the audit committee before the auditor's report is filed with the Commission.

3. Enhanced Disclosures About the Services Provided by Auditors to Registrants

The existing proxy disclosure rules require disclosure of all professional fees billed by the principal auditor in the last fiscal year, with the fees broken down into three categories: audit fees, financial information systems design and implementation fees, and all other fees. The final rules divide the disclosure into two more categories—tax fees and audit-related fees—and add disclosure of one more year of these fees while eliminating separate disclosure of fees related to financial information systems design and implementation.[287] The final rules also require companies that do not file proxy statements to file this information with the Commission in their annual reports on Forms 10–K and 10–KSB, foreign private issuers to file the information on Form 20–F, certain Canadian issuers to file the information on Form 40–F, and registered management investment companies to file the information on Form N–CSR.[288]

Registrants also are required to disclose the audit committee's policies and procedures for approval of services provided by the accounting firm, and the percentage of fees in each of the four categories noted above (audit, audit-related, tax, and all other) where the audit committee used the *de minimis* exception to the pre-approval requirements.[289]

Based on the staff's experience, we believe that the additional disclosure contemplated by the final rules will require, on average, approximately one-half of a page in a company's proxy statement or annual report. Accordingly, we believe the additional printing costs from these additional disclosures will be small.

Using estimates derived from our Paperwork Reduction Act analysis, we estimate that the incremental impact of the disclosure changes will result in a total cost of $5,862,400 for all affected filers. The estimate is based on the burden hour estimates calculated under the Paperwork Reduction Act. For purposes of the Paperwork Reduction Act, we estimate that the additional disclosure will result in 26,678 internal burden hours and $2,999,400 in external costs. Assuming a cost of $125/hour for in-house professional staff (and $40 per hour for internal staff review for Form N–CSR), the total cost for the internal burden hours would be $2,863,000.[290] Hence the aggregate cost estimate is $5,862,400 ($2,863,000 + $2,999,400).

4. Transition

In response to the concerns of several commenters, we are providing a transition period for several of the requirements of the final rules. A transition period helps to alleviate the immediate impact of any costs and burdens that may be imposed on certain registrants and their accounting firms. A transition period may even help reduce costs as registrants and accounting firms will have additional time to adjust their processes and procedures to the new requirements.

V. Consideration of Burden on Competition, and Promotion of Efficiency, Competition, and Capital Formation

Section 23(a)(2) of the Exchange Act[291] requires the Commission, when adopting rules under the Exchange Act, to consider the anti-competitive effects of any rule it adopts. In addition, Section 2(b) of the Securities Act of 1933,[292] Section 3(f) of the Exchange Act,[293] and Section 2(c) of the Investment Company Act[294] require the Commission, when engaging in rulemaking that requires it to consider or determine whether an action is necessary or appropriate in the public interest, to consider whether the action will promote efficiency, competition, and capital formation.

The rules prohibit the independent accounting firm from providing certain non-audit services for their audit clients. These rules, therefore, could result in some companies seeking new accounting firms for non-audit services permitted under our previous rules, but not allowed under the Sarbanes-Oxley Act and the final rules. This may have an impact on competition for those services, although to the extent the new vendor is another accounting firm, the result may redistribute services among firms rather than an increase or decrease in services.

The proposed rules may have disadvantaged smaller accounting firms because of the partner rotation requirements, since smaller firms may not have other partners available to continue providing audit services to the client. We have modified the final rules to mitigate this concern. Under the final rules, accounting firms with fewer than five audit clients and fewer than ten partners may be exempted from the audit partner rotation and compensation requirements.

One possible adverse impact on capital formation may come from additional costs related to audit committees. Although the final rules do

[285] *See,* Item 303 of Regulation S–K, 17 CFR 229.303; Release No. 33–8040 (Dec. 12, 2001); and SAS 61, ''Communication with Audit Committees or Others with Equivalent Authority and Responsibility,'' AU § 380.

[286] An investment company's auditor will only be required to communicate this information to the audit committee annually, unless there have been changes from the previously-reported information and the annual communication was completed more than 90 days prior to the filing. This should reduce the cost for investment companies to comply with this requirement.

[287] In the case of investment companies, the investors will receive this information for the investment company registrant and separately, for all other entities in the investment company complex where the services were subject to pre-approval by the investment company's audit committee.

[288] Form 10–K is the annual report that registrants file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act, if no other annual reporting form has been prescribed. Small business issuers may use abbreviated Form 10–KSB. A ''small business issuer'' is an entity that (1) has revenues of less than $25,000,000, (2) is a U.S. or Canadian issuer, (3) is not an investment company, and (4) if a majority owned subsidiary, the parent corporation is also a small business issuer. An entity is not a ''small business issuer,'' however, if the aggregate market value of its outstanding voting and non-voting common stock held by non-affiliates is $25,000,000 or more. *See,* 17 CFR 240.12b–2. Registered management investment companies would use Form N–CSR to file certified shareholder reports with the Commission under the Sarbanes-Oxley Act of 2002.

[289] With respect to investment companies, the final rules also will require disclosure of all non-audit fees paid to the investment company's accountant by all entities in the investment company complex, and whether the audit committee considered those non-audit services in evaluating the auditor's independence with respect to the investment company.

[290] The $125/hour cost estimate is based on data obtained from *The SIA Report on Management and Professional Earnings in the Securities Industry* (Oct. 2001).

[291] 15 U.S.C. 78w(a)(2).

[292] 15 U.S.C. 77b(b).

[293] 15 U.S.C. 78c(f).

[294] 15 U.S.C. 80a–2(c).

not require companies to have audit committees, many companies may choose to establish such committees to facilitate the pre-approval requirements of the rules. Additional costs may be associated with forming such committees and, if necessary, recruiting and retaining directors to serve on those committees. One commenter noted that the costs to maintain audit committees may increase due to additional meetings required, increased compensation for members due to the increased time demands, and increased director's and officer's insurance premiums due to increased liability of audit committee members. While the rules may increase the number of meetings required and the time demands of audit committee members, we believe a properly functioning audit committee should enhance the quality and accountability of the financial reporting process and help increase investor confidence, which results in increased efficiency and competitiveness of the U.S. capital markets.

Investors' confidence in the independence of auditors and in the integrity of the financial information fuels our securities markets. These rules are designed to bolster investor confidence in the securities markets by strengthening auditor independence, improving the transparency of the role of corporate audit committees, and enhancing the reliability and credibility of financial statements of public companies. Accordingly, on the whole, we believe the final rules will promote capital formation and market efficiency.

VI. Final Regulatory Flexibility Act Analysis

This Final Regulatory Flexibility Act Analysis has been prepared in accordance with 5 U.S.C. 603. It relates to revisions to Regulation S–X and to Item 9 of Schedule 14A, and to Forms 10–K, 10–KSB, 20–F, 40–F and N–CSR. The rules strengthen the Commission's requirements regarding the independence of auditors, audit committee pre-approval of services provided by the independent accountant and related disclosures, and auditor communications with the audit committee.

A. Reasons for the Rule Amendments

The rules generally implement a congressional mandate. Some of the amendments, although not specifically required by the statute, are designed to implement the intent of the Sarbanes-Oxley Act. The rules are intended to provide greater assurance to investors that independent auditors are performing their public responsibilities.

The rules, in general:

- Revise the Commission's regulations related to the non-audit services that, if provided to an audit client, will impair an accounting firm's independence;
- Require that an issuer's audit committee pre-approve all audit and non-audit services provided to the issuer by the auditor of an issuer's financial statements;
- Prohibit certain partners on the audit engagement team from providing audit services to the issuer for more than five or seven consecutive years, depending on the partner's involvement in the audit, except that certain small accounting firms may be exempted from this requirement;
- Prohibit an accounting firm from auditing an issuer's financial statements if certain members of management of that issuer had been members of the accounting firm's audit engagement team within the one-year period preceding the commencement of audit procedures;
- Require that the auditor of an issuer's financial statements report certain matters to the issuer's audit committee, including ''critical'' accounting policies used by the issuer; and
- Require disclosures to investors of information related to audit and non-audit services provided by, and fees paid to, the auditor of the issuer's financial statements.
- Provide that an accountant will not be independent from an audit client if an audit partner received compensation based on selling engagements to that client for services other than audit, review and attest services, except that the rules exempt certain small accounting firms from this requirement.

B. Objectives

Our objectives in implementing Title II of the Sarbanes-Oxley Act are to increase investor confidence in the independence of auditors, in the audit process, and in the reliability of reported financial information. The rules accomplish these objectives by having: (1) Clearer auditor independence regulations that will assure investors that auditors are placing the interests of investors over financial or personal incentives, (2) rules mandating that auditors communicate certain matters to audit committees which should enhance the opportunities for meaningful audit committee oversight of the financial reporting process, and (3) enhanced disclosure of the non-audit services provided by, and fees paid to, the accounting firm that audits the company's financial statements and disclosure of the audit committee policies for pre-approving the provision of non-audit services by the accounting firm that audits the company's financial statements. We believe that these factors will improve the efficiency of the markets and result in a lower cost of capital.

C. Significant Issues Raised by Public Comment

Several commenters indicated that the partner rotation and compensation rules might be particularly difficult for small accounting firms to implement. They stated that if the rotation requirements were applied to small accounting firms, many of these firms would be unable to provide audit services to their public clients and would be forced to give them up. They further suggested a number of accommodations for small issuers and small firms including: exempting the firms based on criteria such as number of partners, number of SEC clients, firm revenue, or number of professional personnel; and exempting accountants of small issuers as measured by revenue, assets, market capitalization or profitability.

The U.S. Small Business Administration's Office of Advocacy (''Advocacy'') was among the commenters recommending that the Commission include a small firm exemption from the audit partner rotation requirements. Advocacy stated that the exemption would ensure that small issuers would not incur marked increases in audit costs. It also expressed the concern that small issuers retaining the services of accounting firms that previously were exempt from audit rotation requirements may no longer be able to retain such firms if the firms lose the exemption and decline to offer audit services as a result. Advocacy asserted that if the small issuers then have to engage the services of larger firms, the costs incurred by these companies would increase due to the need of the new firms to familiarize themselves with the issuers' industries and business practices. Advocacy further stated that an effect of the elimination of small firms from the competitive market for audit services and market consolidation would be an increase in audit prices because of larger firms' gain in power over pricing.

The final amendments provide an alternative application for small accounting firms to address commenters' concerns. Under the final rules, accounting firms with fewer than five audit clients that are issuers and fewer than ten partners may qualify for the exemption from partner rotation, but

the Board must conduct a special review of all of the firm's engagements subject to the rule at least once every three years. This special review should focus on the overall quality of the audit, and in particular, the independence and competence of the key personnel on the audit engagement teams. Additionally, accounting firms with fewer than five audit clients that are issuers and fewer than ten partners are exempt from the compensation requirements.

D. Small Entities Subject to the Rules

The rules affect smaller registrants and smaller accounting firms. Exchange Act Rule 0–10(a) [295] and Securities Act Rule 157 [296] define a 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 approximately 2,500 companies, other than investment companies, are small entities.

For purposes of the Investment Company Act, Rule 0–10 [297] defines a ''small business'' as an investment company complex [298] with net assets of $50 million or less as of the end of its most recent fiscal year. We estimate that approximately 225 investment companies meet this definition.

Our rules do not define ''small business'' or ''small organization'' for purposes of accounting firms. The Small Business Administration defines small business, for purposes of accounting firms, as those with under $6 million in annual revenues. We have only limited data indicating revenues for accounting firms, and we cannot estimate the number of firms with less than $6 million in revenues that practice before the Commission. We requested comment on the number of accounting firms with revenue under $6 million. Advocacy provided information indicating that a great majority of the 51,645 accounting firms in the United States have less than $6 million in revenue.[299] Advocacy noted that the U.S. Census does not classify the firms according to revenue, but obtained average per-firm revenue through publicly available IRS tax return information. According to Advocacy, IRS data indicates that in 1998, there were 46,407 tax returns for accounting firms organized as corporations.[300] Advocacy concluded that, of the firms captured by the IRS data, 99.18% (46,025) would likely qualify as small businesses because they had less than $3 million in receipts, and a further 318 corporate filers were reported to have an average of $5.7 million in receipts, indicating that the majority of these firms also had less than $6 million in revenues. Since fewer than 1,000 firms [301] provide audit services to issuers, it is uncertain how many of those firms qualify as small businesses.

E. Reporting, Recordkeeping and Other Compliance Requirements

1. Auditor Independence

The vast majority of registrants are audited by one of the four largest accounting firms, which clearly are not small entities. Nonetheless, changes in the auditor independence regulations may impose compliance requirements, recordkeeping and reporting requirements on smaller accounting firms and on any smaller registrant that engages, or would like to consider engaging, the auditor of an issuer's financial statements to perform non-audit services.

(a) *Non-audit services.* These auditor independence rules state that the performance of certain non-audit services will impair an auditor's independence. The rules, in some cases, redefine the limits of those non-audit services and add an additional item, ''expert services,'' to the previous list of prohibited services. These changes could impact the competitive markets for these services. In particular, the Commission is withdrawing the specific exemption in the current rules that allows audit clients with less than $200 million in total assets to engage the auditors of their financial statements to perform internal audit outsourcing services.[302] Under these rules, small issuers also are precluded from engaging the independent accountants to perform services in the categories of financial systems design and implementation services, appraisal and valuation services, actuarial services, and others, that could have been performed under the previous rules. Smaller registrants, therefore, may have to use a separate vendor for such services. Smaller accounting firms may lose one or more sources of revenue because they no longer will be able to sell certain non-audit services to their audit clients.

According to the information available to the staff in 2000, however, approximately 12,600 registrants did not purchase any consulting services from the auditor of their financial statements, and 4,100 registrants reported purchasing such services.[303] Based on the attention that non-audit services have received in the past year, the Commission staff believes that the number of smaller registrants purchasing non-audit services from their auditors, and the number of smaller accounting firms providing a significant amount of non-audit services to audit clients that are Commission registrants, might have decreased. Also, to the extent non-audit services are merely redistributed among the firms, there will be no net loss of revenue to public accounting firms as a whole.

(b) *Audit Committee Pre-Approval of Services.* Under the rules, all audit and non-audit services to be provided by the auditor of an issuer's financial statements must be pre-approved by the issuer's audit committee.[304] The definition of audit committee in the Sarbanes-Oxley Act, which is cited in the rules, however, indicates that if no such committee exists, the entire board of directors of the issuer may perform this function.[305] The rules, therefore, do not require a small company to form an audit committee.

There are reasons to believe that many smaller entities currently have audit committees.[306] Any smaller entity that does not have such a committee and forms one to facilitate operation of the rules, however, will incur costs to establish such a committee and, if necessary, to recruit and retain the required number of independent

[295] 17 CFR 240.0–10(a).

[296] 17 CFR 230.157.

[297] 17 CFR 270.0–10.

[298] The definition of a ''small business'' also includes a ''unit investment trust'' and a ''business development company.''

[299] Advocacy cited recent U.S. Census Statistics. *See,* Bureau Of The Census, U.S. Department Of Commerce, ''Statistics Of U.S. Business,'' 1998 (NAICS Code #541211).

[300] *See,* IRS, ''1998 Corporation Source Book Of Statistics Of Income, Income Tax Returns of Active Corporations with Accounting periods ended July 1998 Through June 1999,'' Minor Industry 541215 (1998).

[301] Data provided by the SEC Practice Section of the AICPA.

[302] 17 CFR 210.2–01(c)(4)(v)(A).

[303] *Id.;* 65 FR at 43185.

[304] In the case of investment companies, all non-audit services provided by the auditor to an entity in the investment company complex that relate to the operations or financial reporting of the investment company must be pre-approved by the audit committee of the investment company.

[305] Section 301 of the Sarbanes-Oxley Act of 2002 requires the Commission to direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that does not meet certain criteria, including having an audit committee that performs certain functions. *See,* Section 10A(m) of the Exchange Act, 15 U.S.C. 78j–1(m). The Sarbanes-Oxley Act defines ''audit committee'' to be ''(A) a committee (or equivalent body) established by and amongst the board of directors of an issuer for the purpose of overseeing the accounting and financial reporting processes of the issuer and audits of the financial statements of the issuer; and (B) if no such committee exists with respect to an issuer, the entire board of directors of the issuer.'' Section 205(a) of the Sarbanes-Oxley Act, among other things, adds Section 3(a)(58) to the Exchange Act.

[306] *See, e.g.*, NACD, 2001–2002 Public Company Governance Survey (Nov. 2001).

directors. Smaller entities also may spend time and incur costs to document the audit committee's activities in the areas covered by the rules, including drafting and maintaining the audit committee's policies and procedures related to engaging the auditor to perform non-audit services. Moreover, small entities may incur costs in seeking the help of outside experts, particularly outside legal counsel, in drafting the audit committee's policies and procedures.

(c) *Rotation of Partners on the Audit Engagement.* Under the rules, certain partners may not serve on an audit engagement team for more than five or seven years, depending on the partner's involvement in the audit. Current professional requirements state that the lead partner should be replaced after serving in that capacity for seven years.[307] The rules, therefore, require more partners to be rotated and the lead partner to be rotated more frequently.

Potential costs associated with the periodic replacement of partners include more frequent company-specific training because new partners joining the audit engagement team will need to learn the company's accounting and financial reporting procedures, controls and familiarize themselves with key personnel. The rules also may result in incremental costs related to some partners being required to relocate.

In response to concerns expressed by commenters, the final rules allow accounting firms with fewer than five audit clients and fewer than ten partners to be exempted from the rotation requirement.

(d) *One-Year Cooling Off Period.* The rules deem an accounting firm to be not independent with respect to an audit client if a former member of the audit engagement team begins employment in a ''financial reporting oversight role'' at that issuer if the individual had been a member of the audit engagement team within the one-year period preceding the initiation of the audit.[308] A ''financial reporting oversight role'' is a role in which a person is in a position to or does influence the contents of financial statements or anyone who prepares them.[309] Such persons include directors, chief executive officers, chief financial officers, chief accounting officers, controllers, and others.

A smaller registrant may incur costs from a delay in hiring, or not being able to hire, the individual that it believes is the most qualified person to perform a ''financial reporting oversight role'' at the company. This may add to recruitment costs or less efficient operations.

(e) *Compensation.* Under the rules, an accounting firm's independence will be deemed to be impaired if any audit partner receives compensation based on directly selling to an audit client services other than audit, review and attest services. Thus, accounting firms will have to discontinue compensating these individuals for ''cross-selling'' services.

Some smaller accounting firms may have a relatively small number of partners, available to serve each client. Such firms may not have personnel, other than the partner in charge of the smaller company's audit with sufficient expertise to market and provide non-audit services to that company. In recognition of the special issues associated with smaller firms, the final rules provide that accounting firms with fewer than five audit clients and fewer than ten partners may be exempted from the compensation rule.

2. Auditor Reports to Audit Committees

Under the rules, each public accounting firm registered with the Board that audits an issuer's financial statements must report to the issuer's audit committee (1) all critical accounting policies and practices used by the issuer, (2) all material alternative accounting treatments within GAAP that have been discussed with management, including the ramifications of the use of the alternative treatments and the treatment preferred by the accounting firm, (3) other material written communications between the accounting firm and management of the issuer such as any management letter or schedule of ''unadjusted differences,'' and (4) in the case of registered investment companies, all non-audit services provided to entities in the investment company complex that were not pre-approved by the investment company's audit committee. The required reports need not be in writing, but must be provided to the audit committee before the auditor's report on the financial statements is filed with the Commission.[310]

GAAS currently require discussions between the auditors and the audit committee of significant unusual, controversial, or emerging accounting policies, of the process used by management to select certain estimates, and of disagreements with management over certain accounting matters. Further, audit committees generally are aware of management's letter making representations to the auditors, which the auditor uses in conducting the audit of the issuer's financial statements, and the auditor's letters to management on reportable conditions in internal controls and other matters. Also, due to enactment of Section 401 of the Sarbanes-Oxley Act, all material adjustments identified by the auditor should be reflected in the issuer's financial statements and, therefore, there should be no material ''unadjusted differences.'' In the case of investment companies, we believe auditors already are reporting non-audit services provided to the investment company complex annually and some routinely provide more frequent updates at the request of the audit committee.

Because of these GAAS and legal provisions, we believe that adoption of the rules regarding auditor reports to audit committees will not significantly increase costs, including costs for smaller accounting firms and smaller registrants. Some costs may be incurred, however, to the extent communications are required before the auditor's report is filed with the Commission.

3. Enhanced Disclosures About the Services Provided by Auditors to Registrants

Currently, disclosure is required in proxy statements of the fees billed in the most recent fiscal year under the categories of audit fees, information systems design and implementation fees, and all other fees.[311] The rules require disclosure of the fees billed in each of the two most recent years. The rules also add the categories of tax fees and audit-related fees but eliminate separate disclosure of information systems design and implementation from the current list of categories of fees. The rules also require disclosure of

[307] *See,* AICPA, SEC Practice Section, Requirements of Members, at item e. The membership requirements are available online at *http://www.aicpa.org/members/div/secps/require.htm.* In its comment letter, Advocacy stated its belief that there are approximately 460 audit firms in the United States providing audit services to 765 smaller reporting companies who are currently exempt from the AICPA audit partner rotation requirements.

[308] In the case of investment companies, the cooling off period extends not only to positions at the investment company, but also to positions at any entity in the investment company complex that is directly responsible for the operations or financial reporting of the investment company.

[309] *See,* Rule 2–01(f)(3)(ii) of Regulation S–X.

[310] In the case of investment companies, the auditors are required to discuss these matters with the audit committee annually, with an update, if necessary.

[311] In the case of investment companies, the investors will receive this information for the investment company registrant and separately, for all other entities in the investment company complex where the services were subject to pre-approval by the investment company's audit committee.

the percentage of fees in each category where the audit committee used the *de minimis* exception to the pre-approval requirements. Finally, the rules extend the disclosure requirements to all entities filing Forms 10–K, 10–KSB, 20–F, 40–F and N–CSR.[312]

The rules require all entities filing Forms 10–K, 10–KSB, 20–F, 40–F and N–CSR to include the disclosure either in the proxy or information statement or, if the company is does not issue a proxy or information statement, in Forms 10–K, 10–KSB, 20–F, 40–F or Form N–CSR. The rules, therefore, may require smaller entities to spend additional time and incur additional costs in preparing disclosures. Smaller entities also may incur costs to set up procedures to monitor the activities of the audit committee in order to collect and record the information to be disclosed under the rules.

F. Agency Action To Minimize Effect on Small Entities and Significant Alternatives

The Regulatory Flexibility Act directs us to consider significant alternatives that would accomplish the stated objective, while minimizing any significant adverse impact on small entities. In connection with the amendments, we considered the following alternatives:

- The establishment of differing compliance or reporting requirements or timetables that take into account the resources of smaller entities;
- The clarification, consolidation, or simplification of compliance and reporting requirements under the rule for smaller entities;
- The use of performance rather than design standards; and
- An exemption from coverage of the proposed amendments, or any part thereof, for smaller entities.

We believe investors in both smaller companies and larger companies want and benefit from the revisions to the auditor independence rules, enhanced communications between the auditor and the audit committee, and enhanced disclosures required by the rule.

[312] Form 10–K is the annual report that registrants file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act, if no other annual reporting form has been prescribed. Small business issuers may use abbreviated Form 10–KSB. A ''small business issuer'' is an entity that (1) has revenues of less than $25,000,000, (2) is a U.S. or Canadian issuer, (3) is not an investment company, and (4) if a majority owned subsidiary, the parent corporation also is a small business issuer. An entity is not a ''small business issuer,'' however, if the aggregate market value of its outstanding voting and non-voting common stock held by non-affiliates is $25,000,000 or more. See 17 CFR 240.12b–2. Registered management investment companies use Form N–CSR to file certified shareholder reports with the Commission.

We, nevertheless, have determined that the two specific exemptions from the final rules for smaller accounting firms that are described above are appropriate and consistent with the Sarbanes-Oxley Act.

VII. Codification Update

The Commission is amending the ''Codification of Financial Reporting Policies'' announced in Financial Reporting Release No. 1 (April 15, 1982):

By amending Section 602 to add a new discussion at the end of that section under the Financial Reporting Release Number (FR–68) assigned to the adopting release and including the text in the adopting release that discusses the final rules would be as presented in Section II of this release.

The Codification is a separate publication of the Commission. It will not be published in the Code of Federal Regulations.

VIII. Statutory Bases and Text of Amendments

We are adopting amendments to Rules 2–01 and 2–07 of Regulation S–X, Item 9 of Schedule 14A, Forms 10–K, 10–KSB, 20–F and 40–F, Form N–CSR and Exchange Act Rule 10A–2 under the authority set forth in Schedule A and Sections 7, 8, 10, 19 and 28 of the Securities Act, Sections 3, 10A, 12, 13, 14, 17, 23 and 36 of the Exchange Act, Sections 5, 10, 14 and 20 of the Public Utility Holding Company Act of 1935, Sections 8, 30, 31 and 38 of the Investment Company Act of 1940, Sections 203 and 211 of the Investment Advisers Act of 1940, and Sections 3(a) and 208 of the Sarbanes-Oxley Act.

Text of Amendments

List of Subjects

17 CFR Part 210

Accountants, Accounting.

17 CFR Part 240

Broker-dealers, Issuers, Securities.

17 CFR Part 249

Reporting and recordkeeping requirements, Securities.

17 CFR Part 274

Investment companies, Reporting and recordkeeping requirements, Securities.

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, INVESTMENT ADVISERS ACT OF 1940 AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. The authority citation for Part 210 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 78c, 78j–1, 78*l*, 78m, 78n, 78o(d), 78q, 78u–5, 78w(a), 78*ll*, 78mm, 79e(b), 79j(a), 79n, 79t(a), 80a–8, 80a–20, 80a–29, 80a–30, 80a–37(a), 80b–3, 80b–11 unless otherwise noted.

2. Section 210.2–01 is amended by:

a. Revising paragraph (c)(2)(iii);
b. Revising paragraph (c)(4);
c. Adding paragraph (c)(6);
d. Adding paragraph (c)(7);
e. Adding paragraph (c)(8);
f. Revising paragraph (e)(1);
g. Removing paragraph (e)(2);
h. Redesignating paragraph (e)(3) as (e)(2);
i. Revising paragraph (f)(1);
j. Revising paragraph (f)(3);
k. Revising paragraph (f)(7); and
l. Adding paragraph (f)(17).

The revisions and additions read as follows:

§ 210.2–01 Qualifications of accountants.

* * * * *

(c) * * *

(2) *Employment relationships.* * * *

(i) * * *

(ii) * * *

(iii) *Employment at audit client of former employee of accounting firm.*

(A) A former partner, principal, shareholder, or professional employee of an accounting firm is in an accounting role or financial reporting oversight role at an audit client, unless the individual:

(*1*) Does not influence the accounting firm's operations or financial policies;

(*2*) Has no capital balances in the accounting firm; and

(*3*) Has no financial arrangement with the accounting firm other than one providing for regular payment of a fixed dollar amount (which is not dependent on the revenues, profits, or earnings of the accounting firm):

(*i*) Pursuant to a fully funded retirement plan, rabbi trust, or, in jurisdictions in which a rabbi trust does not exist, a similar vehicle; or

(*ii*) In the case of a former professional employee who was not a partner, principal, or shareholder of the accounting firm and who has been disassociated from the accounting firm

for more than five years, that is immaterial to the former professional employee; and

(B) A former partner, principal, shareholder, or professional employee of an accounting firm is in a financial reporting oversight role at an issuer (as defined in section 10A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(f)), except an issuer that is an investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8), unless the individual:

(1) Employed by the issuer was not a member of the audit engagement team of the issuer during the one year period preceding the date that audit procedures commenced for the fiscal period that included the date of initial employment of the audit engagement team member by the issuer;

(2) For purposes of paragraph (c)(2)(iii)(B)(*1*) of this section, the following individuals are not considered to be members of the audit engagement team:

(i) Persons, other than the lead partner and the concurring partner, who provided ten or fewer hours of audit, review, or attest services during the period covered by paragraph (c)(2)(iii)(B)(*1*) of this section;

(ii) Individuals employed by the issuer as a result of a business combination between an issuer that is an audit client and the employing entity, provided employment was not in contemplation of the business combination and the audit committee of the successor issuer is aware of the prior employment relationship; and

(iii) Individuals that are employed by the issuer due to an emergency or other unusual situation provided that the audit committee determines that the relationship is in the interest of investors;

(3) For purposes of paragraph (c)(2)(iii)(B)(*1*) of this section, audit procedures are deemed to have commenced for a fiscal period the day following the filing of the issuer's periodic annual report with the Commission covering the previous fiscal period; or

(C) A former partner, principal, shareholder, or professional employee of an accounting firm is in a financial reporting oversight role with respect to an investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8), if:

(*1*) The former partner, principal, shareholder, or professional employee of an accounting firm is employed in a financial reporting oversight role related to the operations and financial reporting of the registered investment company at an entity in the investment company complex, as defined in (f)(14) of this section, that includes the registered investment company; and

(*2*) The former partner, principal, shareholder, or professional employee of an accounting firm employed by the registered investment company or any entity in the investment company complex was a member of the audit engagement team of the registered investment company or any other registered investment company in the investment company complex during the one year period preceding the date that audit procedures commenced that included the date of initial employment of the audit engagement team member by the registered investment company or any entity in the investment company complex.

(*3*) For purposes of paragraph (c)(2)(iii)(C)(*2*) of this section, the following individuals are not considered to be members of the audit engagement team:

(*i*) Persons, other than the lead partner and concurring partner, who provided ten or fewer hours of audit, review or attest services during the period covered by paragraph (c)(2)(iii)(C)(*2*) of this section;

(*ii*) Individuals employed by the registered investment company or any entity in the investment company complex as a result of a business combination between a registered investment company or any entity in the investment company complex that is an audit client and the employing entity, provided employment was not in contemplation of the business combination and the audit committee of the registered investment company is aware of the prior employment relationship; and

(*iii*) Individuals that are employed by the registered investment company or any entity in the investment company complex due to an emergency or other unusual situation provided that the audit committee determines that the relationship is in the interest of investors.

(*4*) For purposes of paragraph (c)(2)(iii)(C)(*2*) of this section, audit procedures are deemed to have commenced the day following the filing of the registered investment company's periodic annual report with the Commission.

* * * * *

(4) *Non-audit services.* An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:

(i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:

(A) Maintaining or preparing the audit client's accounting records;

(B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission; or

(C) Preparing or originating source data underlying the audit client's financial statements.

(ii) *Financial information systems design and implementation.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:

(A) Directly or indirectly operating, or supervising the operation of, the audit client's information system or managing the audit client's local area network; or

(B) Designing or implementing a hardware or software system that aggregates source data underlying the financial statements or generates information that is significant to the audit client's financial statements or other financial information systems taken as a whole.

(iii) *Appraisal or valuation services, fairness opinions, or contribution-in-kind reports.* Any appraisal service, valuation service, or any service involving a fairness opinion or contribution-in-kind report for an audit client, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements.

(iv) *Actuarial services.* Any actuarially-oriented advisory service involving the determination of amounts recorded in the financial statements and related accounts for the audit client other than assisting a client in understanding the methods, models, assumptions, and inputs used in computing an amount, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements.

(v) *Internal audit outsourcing services.* Any internal audit service that has been outsourced by the audit client that relates to the audit client's internal accounting controls, financial systems, or financial statements, for an audit client unless it is reasonable to conclude that the results of these services will not

be subject to audit procedures during an audit of the audit client's financial statements.

(vi) *Management functions.* Acting, temporarily or permanently, as a director, officer, or employee of an audit client, or performing any decision-making, supervisory, or ongoing monitoring function for the audit client.

(vii) *Human resources.* (A) Searching for or seeking out prospective candidates for managerial, executive, or director positions;

(B) Engaging in psychological testing, or other formal testing or evaluation programs;

(C) Undertaking reference checks of prospective candidates for an executive or director position;

(D) Acting as a negotiator on the audit client's behalf, such as determining position, status or title, compensation, fringe benefits, or other conditions of employment; or

(E) Recommending, or advising the audit client to hire, a specific candidate for a specific job (except that an accounting firm may, upon request by the audit client, interview candidates and advise the audit client on the candidate's competence for financial accounting, administrative, or control positions).

(viii) *Broker-dealer, investment adviser, or investment banking services.* Acting as a broker-dealer (registered or unregistered), promoter, or underwriter, on behalf of an audit client, making investment decisions on behalf of the audit client or otherwise having discretionary authority over an audit client's investments, executing a transaction to buy or sell an audit client's investment, or having custody of assets of the audit client, such as taking temporary possession of securities purchased by the audit client.

(ix) *Legal services.* Providing any service to an audit client that, under circumstances in which the service is provided, could be provided only by someone licensed, admitted, or otherwise qualified to practice law in the jurisdiction in which the service is provided.

(x) *Expert services unrelated to the audit.* Providing an expert opinion or other expert service for an audit client, or an audit client's legal representative, for the purpose of advocating an audit client's interests in litigation or in a regulatory or administrative proceeding or investigation. In any litigation or regulatory or administrative proceeding or investigation, an accountant's independence shall not be deemed to be impaired if the accountant provides factual accounts, including in testimony, of work performed or explains the positions taken or conclusions reached during the performance of any service provided by the accountant for the audit client.

* * * * *

(6) *Partner rotation.* (i) Except as provided in paragraph (c)(6)(ii) of this section, an accountant is not independent of an audit client when:

(A) Any audit partner as defined in paragraph (f)(7)(ii) of this section performs:

(*1*) The services of a lead partner, as defined in paragraph (f)(7)(ii)(A) of this section, or concurring partner, as defined in paragraph (f)(7)(ii)(B) of this section, for more than five consecutive years; or

(*2*) One or more of the services defined in paragraphs (f)(7)(ii)(C) and (D) of this section for more than seven consecutive years;

(B) Any audit partner:

(*1*) Within the five consecutive year period following the performance of services for the maximum period permitted under paragraph (c)(6)(i)(A)(*1*) of this section, performs for that audit client the services of a lead partner, as defined in paragraph (f)(7)(ii)(A) of this section, or concurring partner, as defined in paragraph (f)(7)(ii)(B) of this section, or a combination of those services, or

(*2*) Within the two consecutive year period following the performance of services for the maximum period permitted under paragraph (c)(6)(i)(A)(*2*) of this section, performs one or more of the services defined in paragraph (f)(7)(ii) of this section.

(ii) Any accounting firm with less than five audit clients that are issuers (as defined in section 10A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(f))) and less than ten partners shall be exempt from paragraph (c)(6)(i) of this section *provided* the Public Company Accounting Oversight Board conducts a review at least once every three years of each of the audit client engagements that would result in a lack of auditor independence under this paragraph.

(iii) For purposes of paragraph (c)(6)(i) of this section, an audit client that is an investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8), does not include an affiliate of the audit client that is an entity in the same investment company complex, as defined in paragraph (f)(14) of this section, except for another registered investment company in the same investment company complex. For purposes of calculating consecutive years of service under paragraph (c)(6)(i) of this section with respect to investment companies in an investment company complex, audits of registered investment companies with different fiscal year-ends that are performed in a continuous 12-month period count as a single consecutive year.

(7) *Audit committee administration of the engagement.* An accountant is not independent of an issuer (as defined in section 10A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(f))), other than an issuer that is an Asset-Backed Issuer as defined in § 240.13a–14(g) and § 240.15d–14(g) of this chapter, or an investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8), other than a unit investment trust as defined by section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–4(2)), unless:

(i) In accordance with Section 10A(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(i)) either:

(A) Before the accountant is engaged by the issuer or its subsidiaries, or the registered investment company or its subsidiaries, to render audit or non-audit services, the engagement is approved by the issuer's or registered investment company's audit committee; or

(B) The engagement to render the service is entered into pursuant to pre-approval policies and procedures established by the audit committee of the issuer or registered investment company, *provided* the policies and procedures are detailed as to the particular service and the audit committee is informed of each service and such policies and procedures do not include delegation of the audit committees responsibilities under the Securities Exchange Act of 1934 to management; or

(C) With respect to the provision of services other than audit, review or attest services the pre-approval requirement is waived if:

(*1*) The aggregate amount of all such services provided constitutes no more than five percent of the total amount of revenues paid by the audit client to its accountant during the fiscal year in which the services are provided;

(*2*) Such services were not recognized by the issuer or registered investment company at the time of the engagement to be non-audit services; and

(*3*) Such services are promptly brought to the attention of the audit committee of the issuer or registered investment company and approved prior to the completion of the audit by the audit committee or by one or more members of the audit committee who are members of the board of directors to

whom authority to grant such approvals has been delegated by the audit committee.

(ii) A registered investment company's audit committee also must pre-approve its accountant's engagements for non-audit services with the registered investment company's investment adviser (not including a sub-adviser whose role is primarily portfolio management and is sub-contracted or overseen by another investment adviser) and any entity controlling, controlled by, or under common control with the investment adviser that provides ongoing services to the registered investment company in accordance with paragraph (c)(7)(i) of this section, if the engagement relates directly to the operations and financial reporting of the registered investment company, except that with respect to the waiver of the pre-approval requirement under paragraph (c)(7)(i)(C) of this section, the aggregate amount of all services provided constitutes no more than five percent of the total amount of revenues paid to the registered investment company's accountant by the registered investment company, its investment adviser and any entity controlling, controlled by, or under common control with the investment adviser that provides ongoing services to the registered investment company during the fiscal year in which the services are provided that would have to be pre-approved by the registered investment company's audit committee pursuant to this section.

(8) *Compensation.* An accountant is not independent of an audit client if, at any point during the audit and professional engagement period, any audit partner earns or receives compensation based on the audit partner procuring engagements with that audit client to provide any products or services other than audit, review or attest services. Any accounting firm with fewer than ten partners and fewer than five audit clients that are issuers (as defined in section 10A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(f))) shall be exempt from the requirement stated in the previous sentence.

* * * * *

(e)(1) *Transition and grandfathering.* Provided the following relationships did not impair the accountant's independence under pre-existing requirements of the Commission, the Independence Standards, Board, or the accounting profession in the United States, the existence of the relationship on May 6, 2003 will not be deemed to impair an accountant's independence:

(i) Employment relationships that commenced at the issuer prior to May 6, 2003 as described in paragraph (c)(2)(iii)(B) of this section.

(ii) Compensation earned or received, as described in paragraph (c)(8) of this section during the fiscal year of the accounting firm that includes the effective date of this section.

(iii) Until May 6, 2004, the provision of services described in paragraph (c)(4) of this section provided those services are pursuant to contracts in existence on May 6, 2003.

(iv) The provision of services by the accountant under contracts in existence on May 6, 2003 that have not been pre-approved by the audit committee as described in paragraph (c)(7) of this section.

(v) Until the first day of the issuer's fiscal year beginning after May 6, 2003 by a ''lead'' partner and other audit partner (other than the ''concurring'' partner) providing services in excess of those permitted under paragraph (c)(6) of this section. An accountant's independence will not be deemed to be impaired until the first day of the issuer's fiscal year beginning after May 6, 2004 by a ''concurring'' partner providing services in excess of those permitted under paragraph (c)(6) of this section. For the purposes of calculating periods of service under paragraph (c)(6) of this section:

(A) For the ''lead'' and ''concurring'' partner, the period of service includes time served as the ''lead'' or ''concurring'' partner prior to May 6, 2003; and

(B) For audit partners other than the ''lead'' partner or ''concurring'' partner, and for audit partners in foreign firms, the period of service does not include time served on the audit engagement team prior to the first day of issuer's fiscal year beginning on or after May 6, 2003.

* * * * *

(f) * * *

(1) *Accountant,* as used in paragraphs (b) through (e) of this section, means a registered public accounting firm, certified public accountant or public accountant performing services in connection with an engagement for which independence is required. References to the accountant include any accounting firm with which the certified public accountant or public accountant is affiliated.

* * * * *

(3)(i) *Accounting role* means a role in which a person is in a position to or does exercise more than minimal influence over the contents of the accounting records or anyone who prepares them.

(ii) *Financial reporting oversight role* means a role in which a person is in a position to or does exercise influence over the contents of the financial statements or anyone who prepares them, such as when the person is a member of the board of directors or similar management or governing body, chief executive officer, president, chief financial officer, chief operating officer, general counsel, chief accounting officer, controller, director of internal audit, director of financial reporting, treasurer, or any equivalent position.

* * * * *

(7)(i) *Audit engagement team* means all partners, principals, shareholders and professional employees participating in an audit, review, or attestation engagement of an audit client, including audit partners and all persons who consult with others on the audit engagement team during the audit, review, or attestation engagement regarding technical or industry-specific issues, transactions, or events.

(ii) *Audit partner* means a partner or persons in an equivalent position, other than a partner who consults with others on the audit engagement team during the audit, review, or attestation engagement regarding technical or industry-specific issues, transactions, or events, who is a member of the audit engagement team who has responsibility for decision-making on significant auditing, accounting, and reporting matters that affect the financial statements, or who maintains regular contact with management and the audit committee and includes the following:

(A) The lead or coordinating audit partner having primary responsibility for the audit or review (the ''lead partner'');

(B) The partner performing a second level of review to provide additional assurance that the financial statements subject to the audit or review are in conformity with generally accepted accounting principles and the audit or review and any associated report are in accordance with generally accepted auditing standards and rules promulgated by the Commission or the Public Company Accounting Oversight Board (the ''concurring or reviewing partner'');

(C) Other audit engagement team partners who provide more than ten hours of audit, review, or attest services in connection with the annual or interim consolidated financial statements of the issuer or an investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8); and

(D) Other audit engagement team partners who serve as the ''lead partner''

in connection with any audit or review related to the annual or interim financial statements of a subsidiary of the issuer whose assets or revenues constitute 20% or more of the assets or revenues of the issuer's respective consolidated assets or revenues.

* * * * *

(17) *Audit committee* means a committee (or equivalent body) as defined in section 3(a)(58) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(58)).

3. By adding § 210.2–07 preceding General Instructions as to Financial Statements to read as follows:

§ 210.2–07 Communication with audit committees.

(a) Each registered public accounting firm that performs for an audit client that is an issuer (as defined in section 10A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(f))), other than an issuer that is an Asset-Backed Issuer as defined in § 240.13a–14(g) and § 240.15d–14(g) of this chapter, or an investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8), other than a unit investment trust as defined by section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–4(2)), any audit required under the securities laws shall report, prior to the filing of such audit report with the Commission (or in the case of a registered investment company, annually, and if the annual communication is not within 90 days prior to the filing, provide an update, in the 90 day period prior to the filing, of any changes to the previously reported information), to the audit committee of the issuer or registered investment company:

(1) All critical accounting policies and practices to be used;

(2) All alternative treatments within Generally Accepted Accounting Principles for policies and practices related to material items that have been discussed with management of the issuer or registered investment company, including:

(i) Ramifications of the use of such alternative disclosures and treatments; and

(ii) The treatment preferred by the registered public accounting firm;

(3) Other material written communications between the registered public accounting firm and the management of the issuer or registered investment company, such as any management letter or schedule of unadjusted differences;

(4) If the audit client is an investment company, all non-audit services provided to any entity in an investment company complex, as defined in §210.2–01 (f)(14), that were not pre-approved by the registered investment company's audit committee pursuant to §210.2–01 (c)(7).

(b) [Reserved]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

4. The authority citation for Part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

5. Section 240.10A–2 is added to read as follows:

§ 240.10A–2 Auditor independence.

It shall be unlawful for an auditor not to be independent under § 210.2–01(c)(2)(iii)(B), (c)(4), (c)(6), (c)(7), and § 210.2–07.

6. Section 240.14a–101 is amended by revising paragraph (e) of Item 9 to read as follows:

§ 240.14a–101 Schedule 14A. Information required in proxy statement.

* * * * *

Item 9. *Independent public accountants.* * * *

* * * * *

(e)(1) Disclose, under the caption *Audit Fees*, the aggregate fees billed for each of the last two fiscal years for professional services rendered by the principal accountant for the audit of the registrant's annual financial statements and review of financial statements included in the registrant's Form 10–Q (17 CFR 249.308a) or 10–QSB (17 CFR 249.308b) or services that are normally provided by the accountant in connection with statutory and regulatory filings or engagements for those fiscal years.

(2) Disclose, under the caption *Audit-Related Fees,* the aggregate fees billed in each of the last two fiscal years for assurance and related services by the principal accountant that are reasonably related to the performance of the audit or review of the registrant's financial statements and are not reported under paragraph (e)(1) of this section. Registrants shall describe the nature of the services comprising the fees disclosed under this category.

(3) Disclose, under the caption *Tax Fees,* the aggregate fees billed in each of the last two fiscal years for professional services rendered by the principal accountant for tax compliance, tax advice, and tax planning. Registrants shall describe the nature of the services comprising the fees disclosed under this category.

(4) Disclose, under the caption *All Other Fees,* the aggregate fees billed in each of the last two fiscal years for products and services provided by the principal accountant, other than the services reported in paragraphs (e)(1) through (e)(3) of this section. Registrants shall describe the nature of the services comprising the fees disclosed under this category.

(5)(i) Disclose the audit committee's pre-approval policies and procedures described in 17 CFR 210.2–01(c)(7)(i).

(ii) Disclose the percentage of services described in each of paragraphs (e)(2) through (e)(4) of this section that were approved by the audit committee pursuant to 17 CFR 210.2–01(c)(7)(i)(C).

(6) If greater than 50 percent, disclose the percentage of hours expended on the principal accountant's engagement to audit the registrant's financial statements for the most recent fiscal year that were attributed to work performed by persons other than the principal accountant's full-time, permanent employees.

(7) If the registrant is an investment company, disclose the aggregate non-audit fees billed by the registrant's accountant for services rendered to the registrant, and to the registrant's investment adviser (not including any subadviser whose role is primarily portfolio management and is subcontracted with or overseen by another investment adviser), and any entity controlling, controlled by, or under common control with the adviser that provides ongoing services to the registrant for each of the last two fiscal years of the registrant.

(8) If the registrant is an investment company, disclose whether the audit committee of the board of directors has considered whether the provision of non-audit services that were rendered to the registrant's investment adviser (not including any subadviser whose role is primarily portfolio management and is subcontracted with or overseen by another investment adviser), and any entity controlling, controlled by, or under common control with the investment adviser that provides ongoing services to the registrant that were not pre-approved pursuant to 17 CFR 210.2–01(c)(7)(ii) is compatible with maintaining the principal accountant's independence.

Instruction to Item 9(e).

For purposes of Item 9(e)(2), (3), and (4), registrants that are investment

companies must disclose fees billed for services rendered to the registrant and separately, disclose fees required to be approved by the investment company registrant's audit committee pursuant to 17 CFR 210.2–01(c)(7)(ii). Registered investment companies must also disclose the fee percentages as required by item 9(e)(5)(ii) for the registrant and separately, disclose the fee percentages as required by item 9(e)(5)(ii) for the fees required to be approved by the investment company registrant's audit committee pursuant to 17 CFR 210.2–01(c)(7)(ii).

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

7. The authority citation for Part 249 is amended by revising the sectional authority for §§ 249.220f, 249.240f, 249.310, 249.310b and 249.331 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), 202, 208, 302, 306(a), 401(a), 401(b), 406 and 407, Pub. L. No. 107–204, 116 Stat. 745.

Section 249.240f is also issued under secs. 3(a), 202, 208, 302, 306(a), 401(a), 406 and 407, Pub. L. No. 107–204, 116 Stat. 745.

* * * * *

Section 249.310 is also issued under secs. 3(a), 202, 208, 302, 406 and 407, Pub. L. No. 107–204, 116 Stat. 745.

Section 249.310b is also issued under secs. 3(a), 202, 208, 302, 406 and 407, Pub. L. No. 107–204, 116 Stat. 745.

* * * * *

Section 249.331 is also issued under secs. 3(a), 202, 208, 302, 406 and 407, Pub. L. No. 107–204, 116 Stat. 745.

8. Amend Form 20–F (referenced in § 249.220f) by adding Item 16C to 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 16C. Principal Accountant Fees and Services.

(a) Disclose, under the caption *Audit Fees,* the aggregate fees billed for each of the last two fiscal years for professional services rendered by the principal accountant for the audit of the registrant's annual financial statements or services that are normally provided by the accountant in connection with statutory and regulatory filings or engagements for those fiscal years.

(b) Disclose, under the caption *Audit-Related Fees,* the aggregate fees billed in each of the last two fiscal years for assurance and related services by the principal accountant that are reasonably related to the performance of the audit or review of the registrant's financial statements and are not reported under paragraph (a) of this Item. Registrants shall describe the nature of the services comprising the fees disclosed under this category.

(c) Disclose, under the caption *Tax Fees,* the aggregate fees billed in each of the last two fiscal years for professional services rendered by the principal accountant for tax compliance, tax advice, and tax planning. Registrants shall describe the nature of the services comprising the fees disclosed under this category.

(d) Disclose, under the caption *All Other Fees,* the aggregate fees billed in each of the last two fiscal years for products and services provided by the principal accountant, other than the services reported in paragraphs (a) through (c) of this Item. Registrants shall describe the nature of the services comprising the fees disclosed under this category.

(e)(1) Disclose the audit committee's pre-approval policies and procedures described in paragraph (c)(7)(i) of Rule 2–01 of Regulation S–X.

(2) Disclose the percentage of services described in each of paragraphs (b) through (d) of this Item that were approved by the audit committee pursuant to paragraph (c)(7)(i)(C) of Rule 2–01 of Regulation S–X.

(f) If greater than 50 percent, disclose the percentage of hours expended on the principal accountant's engagement to audit the registrant's financial statements for the most recent fiscal year that were attributed to work performed by persons other than the principal accountant's full-time, permanent employees.

Instructions to Item 16C.

1. You do not need to provide the information called for by this Item 16C unless you are using this form as an annual report.

2. 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.

* * * * *

9. Amend Form 40–F (referenced in § 249.240f) by adding paragraph (10) 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

* * * * *

(10) Principal Accountant Fees and Services

(1) Disclose, under the caption *Audit Fees*, the aggregate fees billed for each of the last two fiscal years for professional services rendered by the principal accountant for the audit of the registrant's annual financial statements or services that are normally provided by the accountant in connection with statutory and regulatory filings or engagements for those fiscal years.

(2) Disclose, under the caption *Audit-Related Fees*, the aggregate fees billed in each of the last two fiscal years for assurance and related services by the principal accountant that are reasonably related to the performance of the audit or review of the registrant's financial statements and are not reported under paragraph B.(10)(1) of this Instruction. Registrants shall describe the nature of the services comprising the fees disclosed under this category.

(3) Disclose, under the caption *Tax Fees*, the aggregate fees billed in each of the last two fiscal years for professional services rendered by the principal accountant for tax compliance, tax advice, and tax planning. Registrants shall describe the nature of the services comprising the fees disclosed under this category.

(4) Disclose, under the caption *All Other Fees*, the aggregate fees billed in each of the last two fiscal years for products and services provided by the principal accountant, other than the services reported in paragraphs B.(10)(1) through B.(10)(3) of this Instruction. Registrants shall describe the nature of the services comprising the fees disclosed under this category.

(5)(i) Disclose the audit committee's pre-approval policies and procedures described in paragraph (c)(7)(i) of Rule 2–01 of Regulation S–X.

(ii) Disclose the percentage of services described in each of paragraphs B.(10)(2) through B.(10)(4) of this Instruction that were approved by the audit committee pursuant to paragraph (c)(7)(i)(C) of Rule 2–01 of Regulation S–X.

(6) If greater than 50 percent, disclose the percentage of hours expended on the principal accountant's engagement to audit the registrant's financial statements for the most recent fiscal year that were attributed to work performed by persons other than the principal accountant's full-time, permanent employees.

Notes to Instruction B.(10)

1. You do not need to provide the information called for by this Instruction B.(10) unless you are using this form as an annual report.

2. 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 Instruction B.(10).

* * * * *

10. Amend Form 10–K (referenced in § 249.310) by:

a. Redesignating Item 16 of Part IV as Item 17 of Part IV, and

b. Adding new Item 16 to Part III.

The addition reads 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

* * * * *

General Instructions

* * * * *

Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

* * * * *

Part III

* * * * *

Item 16. Principal Accountant Fees and Services.

Furnish the information required by Item 9(e) of Schedule 14A (§ 240.14a–101 of this chapter).

(1) Disclose, under the caption *Audit Fees*, the aggregate fees billed for each of the last two fiscal years for professional services rendered by the principal accountant for the audit of the registrant's annual financial statements and review of financial statements included in the registrant's Form 10–Q (17 CFR 249.308a) or 10–QSB (17 CFR 249.308b) or services that are normally provided by the accountant in connection with statutory and regulatory filings or engagements for those fiscal years.

(2) Disclose, under the caption *Audit-Related Fees*, the aggregate fees billed in each of the last two fiscal years for assurance and related services by the principal accountant that are reasonably related to the performance of the audit or review of the registrant's financial statements and are not reported under Item 9(e)(1) of Schedule 14A. Registrants shall describe the nature of the services comprising the fees disclosed under this category.

(3) Disclose, under the caption *Tax Fees*, the aggregate fees billed in each of the last two fiscal years for professional services rendered by the principal accountant for tax compliance, tax advice, and tax planning. Registrants shall describe the nature of the services comprising the fees disclosed under this category.

(4) Disclose, under the caption *All Other Fees*, the aggregate fees billed in each of the last two fiscal years for products and services provided by the principal accountant, other than the services reported in Items 9(e)(1) through 9(e)(3) of Schedule 14A. Registrants shall describe the nature of the services comprising the fees disclosed under this category.

(5)(i) Disclose the audit committee's pre-approval policies and procedures described in paragraph (c)(7)(i) of Rule 2–01 of Regulation S–X.

(ii) Disclose the percentage of services described in each of Items 9(e)(2) through 9(e)(4) of Schedule 14A that were approved by the audit committee pursuant to paragraph (c)(7)(i)(C) of Rule 2–01 of Regulation S–X.

(6) If greater than 50 percent, disclose the percentage of hours expended on the principal accountant's engagement to audit the registrant's financial statements for the most recent fiscal year that were attributed to work performed by persons other than the principal accountant's full-time, permanent employees.

Instruction to Item 16.

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.

* * * * *

11. Amend Form 10–KSB (referenced in § 249.310b) by adding Item 16 to 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

* * * * *

Part III

* * * * *

Item 16. Principal Accountant Fees and Services.

Furnish the information required by Item 9(e) of Schedule 14A (§ 240.14a–101 of this chapter).

(1) Disclose, under the caption *Audit Fees*, the aggregate fees billed for each of the last two fiscal years for professional services rendered by the principal accountant for the audit of the registrant's annual financial statements and review of financial statements included in the registrant's Form 10–Q (17 CFR 249.308a) or 10–QSB (17 CFR 249.308b) or services that are normally provided by the accountant in connection with statutory and regulatory filings or engagements for those fiscal years.

(2) Disclose, under the caption *Audit-Related Fees*, the aggregate fees billed in each of the last two fiscal years for assurance and related services by the principal accountant that are reasonably related to the performance of the audit or review of the registrant's financial statements and are not reported under Item 9(e)(1) of Schedule 14A. Registrants shall describe the nature of the services comprising the fees disclosed under this category.

(3) Disclose, under the caption *Tax Fees*, the aggregate fees billed in each of the last two fiscal years for professional services rendered by the principal accountant for tax compliance, tax advice, and tax planning. Registrants shall describe the nature of the services comprising the fees disclosed under this category.

(4) Disclose, under the caption *All Other Fees*, the aggregate fees billed in each of the last two fiscal years for products and services provided by the principal accountant, other than the services reported in Items 9(e)(1) through 9(e)(3) of Schedule 14A. Registrants shall describe the nature of the services comprising the fees disclosed under this category.

(5)(i) Disclose the audit committee's pre-approval policies and procedures described in paragraph (c)(7)(i) of Rule 2–01 of Regulation S–X.

(ii) Disclose the percentage of services described in each of Items 9(e)(2) through 9(e)(4) of Schedule 14A that were approved by the audit committee pursuant to paragraph (c)(7)(i)(C) of Rule 2–01 of Regulation S–X.

(6) If greater than 50 percent, disclose the percentage of hours expended on the principal accountant's engagement to audit the registrant's financial statements for the most recent fiscal year that were attributed to work performed by persons other than the principal accountant's full-time, permanent employees.

Instruction to Item 16.

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.

* * * * *

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

12. The authority citation for Part 274 is amended by adding the following citation in numerical order to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78l, 78m, 78n, 78o(d), 80a–8, 80a–24, 80a–26, and 80a–29, unless otherwise noted.

* * * * *

Section 274.128 is also issued under secs. 3(a), 202, 302, 406, and 407, Pub. L. No. 107–204, 116 Stat. 745.

13. By amending Form N–CSR (referenced in §§ 249.331 and 274.128):

a. By revising General Instruction D; and

b. By adding Item 4.

The revision and addition read as follows:

Note: The text of Form N–CSR does not, and this amendment will not, appear in the Code of Federal Regulations.

Form N–CSR

* * * * *

General Instructions

* * * * *

D. Incorporation by Reference

A registrant may incorporate by reference information required by Items 4 and 10(a). No other Items of the Form shall be answered by incorporating any information by reference. The information required by Item 4 may be incorporated by reference from the registrant's definitive proxy statement (filed or required to be filed pursuant to Regulation 14A (17 CFR 240.14a–1 *et seq.*)) or definitive information statement (filed or to be filed pursuant to Regulation 14C (17 CFR 240.14c–1 *et seq.*)) which involves the election of directors, if such definitive proxy statement or information statement is filed with the Commission not later than 120 days after the end of the fiscal year covered by an annual report on this Form. All incorporation by reference must comply with the requirements of this Form and the following rules on incorporation by reference: Rule 10(d) of Regulation S–K under the Securities Act of 1933 (17 CFR 229.10(d)) (general rules on incorporation by reference, which, among other things, prohibit, unless specifically required by this Form, incorporating by reference a document that includes incorporation by reference to another document, and limits incorporation to documents filed within the last 5 years, with certain exceptions); Rule 303 of Regulation S–T (17 CFR 232.303) (specific requirements for electronically filed documents); Rules 12b–23 and 12b–32 under the Exchange Act (additional rules on incorporation by reference for reports filed pursuant to Sections 13 and 15(d) of the Exchange Act); and Rules 0–4, 8b–23, and 8b–32 under the Investment Company Act of 1940 (17 CFR 270.0–4, 270.8b–23, and 270.8b–32) (additional rules on incorporation by reference for investment companies).

* * * * *

Item 4. Principal Accountant Fees and Services.

(a) Disclose, under the caption *Audit Fees*, the aggregate fees billed for each of the last two fiscal years for professional services rendered by the principal accountant for the audit of the registrant's annual financial statements or services that are normally provided by the accountant in connection with statutory and regulatory filings or engagements for those fiscal years.

(b) Disclose, under the caption *Audit-Related Fees*, the aggregate fees billed in each of the last two fiscal years for assurance and related services by the principal accountant that are reasonably related to the performance of the audit of the registrant's financial statements and are not reported under paragraph (a) of this Item. Registrants shall describe the nature of the services comprising the fees disclosed under this category.

(c) Disclose, under the caption *Tax Fees*, the aggregate fees billed in each of the last two fiscal years for professional services rendered by the principal accountant for tax compliance, tax advice, and tax planning. Registrants shall describe the nature of the services comprising the fees disclosed under this category.

(d) Disclose, under the caption *All Other Fees*, the aggregate fees billed in each of the last two fiscal years for products and services provided by the principal accountant, other than the services reported in paragraphs (a) through (c) of this Item. Registrants shall describe the nature of the services comprising the fees disclosed under this category.

(e)(1) Disclose the audit committee's pre-approval policies and procedures described in paragraph (c)(7) of Rule 2–01 of Regulation S–X.

(2) Disclose the percentage of services described in each of paragraphs (b) through (d) of this Item that were approved by the audit committee pursuant to paragraph (c)(7)(i)(C) of Rule 2–01 of Regulation S–X.

(f) If greater than 50 percent, disclose the percentage of hours expended on the principal accountant's engagement to audit the registrant's financial statements for the most recent fiscal year that were attributed to work performed by persons other than the principal accountant's full-time, permanent employees.

(g) Disclose the aggregate non-audit fees billed by the registrant's accountant for services rendered to the registrant, and rendered to the registrant's investment adviser (not including any sub-adviser whose role is primarily portfolio management and is subcontracted with or overseen by another investment adviser), and any entity controlling, controlled by, or under common control with the adviser that provides ongoing services to the registrant for each of the last two fiscal years of the registrant.

(h) Disclose whether the registrant's audit committee of the board of directors has considered whether the provision of non-audit services that were rendered to the registrant's investment adviser (not including any sub-adviser whose role is primarily portfolio management and is subcontracted with or overseen by another investment adviser), and any entity controlling, controlled by, or under common control with the investment adviser that provides ongoing services to the registrant that were not pre-approved pursuant to paragraph (c)(7)(ii) of Rule 2–01 of Regulation S–X is compatible with maintaining the principal accountant's independence.

Instructions.

1. The information required by this Item 4 is only required in an annual report on this Form N–CSR.

2. For purposes of paragraphs (b), (c), and (d), registrants that are investment companies must disclose fees billed for services rendered to the registrant and separately, disclose fees required to be approved pursuant to paragraph (c)(7)(ii) of Rule 2–01 of Regulation S–X. Registered investment companies must also disclose the fee percentages as required by Item 4(e)(2) for the registrant and separately, disclose the fee percentages as required by Item 4(e)(2) for the fees required to be approved by the investment company registrant's audit committee pursuant to paragraph (c)(7)(ii) of Rule 2–01 of Regulation S–X.

* * * * *

By the Commission.

Dated: January 28, 2003.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03–2364 Filed 2–4–03; 8:45 am]

BILLING CODE 8010–01–P

Federal Register

Wednesday,
February 5, 2003

Part IV

The President

Federal Register
Vol. 68, No. 24
Wednesday, February 5, 2003

Presidential Documents

Title 3—

The President

Proclamation 7644 of January 30, 2003

American Heart Month, 2003

By the President of the United States of America

A Proclamation

Advances in medical research have significantly improved our capacity to fight heart disease by providing greater knowledge about its causes, more innovative diagnostic tools to detect and counter it, and new and improved treatments that help people survive and recover from it. Despite these advances, heart disease continues to be America's number one killer. During American Heart Month, we renew our commitment to fighting cardiovascular disease by encouraging our citizens to learn more about its risk factors, its various warning signs, and life-saving emergency response techniques.

Heart attacks result when the blood supply to part of the heart muscle is severely reduced or stopped. Because many heart attack victims do not recognize the warning signs until it is too late, only one in five is able to reach a hospital quickly enough to benefit fully from treatments. To help Americans survive heart attacks, the National Heart, Lung, and Blood Institute (NHLBI), which is part of the National Institutes of Health, has joined with the American Heart Association (AHA) and other national organizations to create a major educational campaign, called ''Act in Time to Heart Attack Signs.'' This campaign encourages Americans to learn the warning signs of a heart attack and to call 911 within minutes—five at most—of the start of symptoms. The campaign also offers educational materials for both the general public and healthcare professionals to encourage communication among doctors, other healthcare providers, and their patients about the importance of recognizing heart attack signs and getting treatment quickly.

Far too many Americans are also unaware of the dangers of cardiac arrest, in which the heart suddenly loses its ability to function. Most cases of cardiac arrest that result in sudden death occur when the diseased heart's electrical impulses become rapid and then chaotic. About 95 percent of sudden cardiac arrest victims die before reaching the hospital. However, if treated within a few minutes, cardiac arrest can be reversed through defibrillation, an electric shock that allows the heart to resume a normal beat.

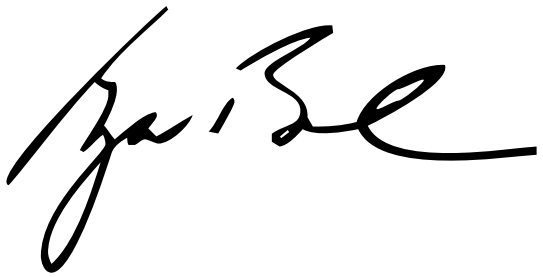
Research has shown that early cardiopulmonary resuscitation (CPR) and rapid defibrillation, combined with early advanced care, can produce long-term survival rates of 40 percent where a cardiac arrest has been witnessed by a bystander. The AHA has developed a nationwide educational campaign called ''Operation Heartbeat,'' to increase public awareness about cardiac arrest. ''Operation Heartbeat'' is educating the public about the warning signs of cardiac arrest, the importance of calling 911 immediately, and the benefits of administering CPR until defibrillation can be given.

When Americans take personal steps to improve their health, our whole society benefits. By developing good eating habits, being physically active, taking advantage of preventive screenings, and avoiding drugs, tobacco, and excessive use of alcohol, individuals and families can significantly reduce the onset and burden of heart disease. In promoting new education programs, supporting research, expanding access to life-saving tools, and encouraging our citizens to learn more about cardiovascular disease and lead healthy lifestyles, we can save lives.

In recognition of the important ongoing fight against cardiovascular disease, the Congress, by Joint Resolution approved December 30, 1963, as amended (77 Stat. 843; 36 U.S.C. 101), has requested that the President issue an annual proclamation designating February as ''American Heart Month.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim February 2003 as American Heart Month. I invite the Governors of the States, the Commonwealth of Puerto Rico, officials of other areas subject to the jurisdiction of the United States, and the American people to join me in reaffirming our commitment to combating cardiovascular disease.

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



[FR Doc. 03–3047
Filed 2–4–03; 11:04 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7645 of January 31, 2003

National African American History Month, 2003

By the President of the United States of America

A Proclamation

African Americans have played central roles in some of the most triumphant and courageous moments in our Nation's history. During National African American History Month, we honor the rich heritage of African Americans and pay tribute to their many contributions to our Nation. As we celebrate this year's theme, ''The Souls of Black Folk: Centennial Reflections,'' we remember the successes and challenges of our past. We also resolve to honor the achievements and legacy of these proud citizens by continuing to improve our society so that it fully lives up to our founding ideals.

In 1915, Dr. Carter Godwin Woodson recognized the need for our country to gain a more complete and informed understanding of our past. He founded the Association for the Study of Negro Life and History and established the first Negro History Week to emphasize that ''We have a wonderful history behind us . . . '' Through the pioneering efforts of Dr. Woodson and the hard work of the Association, this observance officially became Black History Month in 1976.

For generations, African Americans have strengthened our Nation by urging reforms, overcoming obstacles, and breaking down barriers. We see the greatness of America in those who have risen above injustice and enriched our society, a greatness reflected in the resolve of Jackie Robinson, the intellect of W.E.B. DuBois, and the talent of Louis Armstrong. We also gain a deeper appreciation for the African-American experience in the writings of James Baldwin, Ralph Ellison, and Zora Neal Hurston, as well as in the music of Mahalia Jackson, Billie Holiday, Duke Ellington, and countless others.

African Americans reflect a proud legacy of courage and dedication that has helped to guide our Nation's success and prosperity. Visionary leaders like Frederick Douglass, Thurgood Marshall, and Martin Luther King, Jr., possessed a clarity of purpose and were instrumental in exposing and addressing the issues that threatened our founding principles. The battle for freedom, equality, and opportunity was fought on the front lines by strong figures such as Harriet Tubman and Fannie Lou Hamer, as well as many other everyday heroes who helped to lead this Nation to a more hopeful and just society.

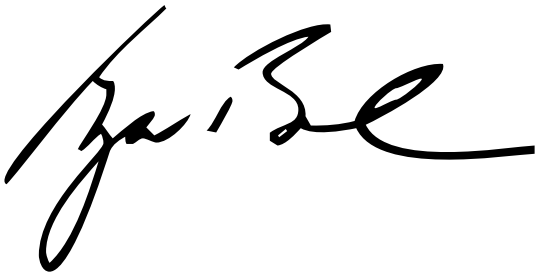
As we recall these remarkable individuals, we also recognize that, despite our progress, racial prejudice still exists in America. As a Nation and as individuals, we must be vigilant in responding to discrimination wherever we find it. By promoting diversity, understanding, and opportunity, we will continue our efforts to build a society where every person, of every race, can realize the promise of America.

This month, I encourage all citizens to gain awareness of and appreciation for African-American history. As we remember this important part of our Nation's past, we look to a bright future, recognizing the potential of an America united in purpose, guided by spirit, and dedicated to equality.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution

and laws of the United States, do hereby proclaim February 2003 as National African American History Month. I call upon public officials, educators, librarians, and all of the people of the United States to observe this month with appropriate programs and activities that highlight and honor the myriad of contributions that African Americans have made to our Nation.

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



[FR Doc. 03–3007
Filed 2–4–03; 11:04 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7646 of February 1, 2003

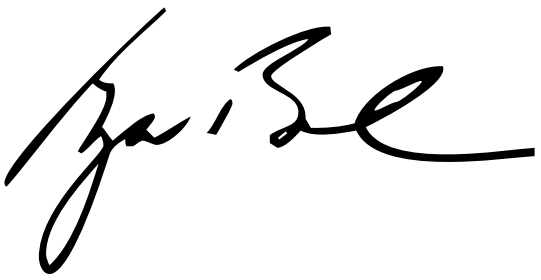
Honoring the Memory of the Astronauts Aboard Space Shuttle *Columbia*

By the President of the United States of America

A Proclamation

As a mark of respect for Rick Douglas Husband, William C. McCool, Laurel Blair Salton Clark, Kalpana Chawla, Michael P. Anderson, David M. Brown, and Ilan Ramon who gave their lives during the mission of STS–107 aboard the Space Shuttle Columbia on February 1, 2003, I hereby order, by the authority vested in me as President of the United States of America by the Constitution and the laws of the United States of America, that the flag of the United States shall be flown at half-staff at the White House and upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions through Wednesday, February 5, 2003. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

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



[FR Doc. 03–3008
Filed 2–4–03; 11:04 am]
Billing code 3195–01–P

Reader Aids

Federal Register

Vol. 68, No. 24

Wednesday, February 5, 2003

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.access.gpo.gov/nara**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives.gov/federal_register/**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://hydra.gsa.gov/archives/publaws-l.html** and select *Join or leave the list* (or change settings); then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **info@fedreg.nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, FEBRUARY

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT FEBRUARY 5, 2003

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Hawaiian and territorial quarantine notices:
Fruits and vegetables from Hawaii; published 2-5-03

ENVIRONMENTAL PROTECTION AGENCY
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
6-Benzyladenine; published 2-5-03
Cyprodinil; published 2-5-03
Thiophanate Methyl; published 2-5-03

FEDERAL COMMUNICATIONS COMMISSION
Radio stations; table of assignments:
Arizona; published 2-5-03

INTERIOR DEPARTMENT
Land Management Bureau
Public administrative procedures:
Conveyances, disclaimers, and correction documents—
Recordable disclaimers of interest in land; amendments; published 1-6-03

NUCLEAR REGULATORY COMMISSION
Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
Approved spent fuel storage casks; list; published 1-6-03

PERSONNEL MANAGEMENT OFFICE
Prevailing rate systems; published 1-6-03

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Raytheon; published 2-5-03

TRANSPORTATION DEPARTMENT
Federal Motor Carrier Safety Administration
Motor carrier safety standards:
Commercial motor vehicles inspected by performance-based brake testers; brake performance requirements; published 8-9-02

TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration
Motor vehicle safety standards:
Occupant crash protection—
Advanced air bag rule; future air bags designed to create less risk of serious injuries for small women and young children, etc.; published 1-6-03

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Agricultural Bioterrorism Protection Act:
Biological agents and toxins; possession; comments due by 2-11-03; published 12-13-02 [FR 02-31373]

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Interstate transportation (quarantine) and exportation and importation of animals and animal products:
Salmonella enteritidis phage-type 4 and serotype enteritidis; import restrictions and regulations removed; comments due by 2-14-03; published 12-16-02 [FR 02-31569]

AGRICULTURE DEPARTMENT
Commodity Credit Corporation
Loan and purchase programs:
Tobacco marketing cards, penalties, identification of marketings, and recordkeeping and reporting requirements; comments due by 2-12-03; published 1-13-03 [FR 03-00368]

AGRICULTURE DEPARTMENT
Farm Service Agency
Farm marketing quotas, acreage allotments, and production adjustments:
Tobacco marketing cards, penalties, identification of marketings, and recordkeeping and reporting requirements; comments due by 2-12-03; published 1-13-03 [FR 03-00368]

AGRICULTURE DEPARTMENT
Rural Utilities Service
Environmental policies and procedures; comments due by 2-14-03; published 1-15-03 [FR 03-00713]

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Endangered and threatened species:
Salmon and steelhead; evolutionarily significant units in California; status review updates and information request; comments due by 2-14-03; published 12-31-02 [FR 02-32953]

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Atlantic highly migratory species—
Commercial shark management measures; comments due by 2-14-03; published 12-27-02 [FR 02-32617]

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
West Coast States and Western Pacific fisheries—
Pacific Coast groundfish; comments due by 2-12-03; published 1-28-03 [FR 03-01909]
Marine mammals:
Commercial fishing authorizations—
Fisheries categorized according to frequency of incidental takes; 2003 list; comments due by 2-10-03; published 1-10-03 [FR 03-00523]

DEFENSE DEPARTMENT
Engineers Corps
Danger zones and restricted areas:
Point Mugu, CA; Naval Base Ventura County; comments due by 2-12-03; published 1-13-03 [FR 03-00561]
Port Hueneme, CA; Naval Base Ventura County; comments due by 2-12-03; published 1-13-03 [FR 03-00562]

ENVIRONMENTAL PROTECTION AGENCY
Air pollutants, hazardous; national emission standards:
Metal can surface coating operations; comments due by 2-14-03; published 1-15-03 [FR 03-00087]
Stationary combustion turbines; comments due by 2-13-03; published 1-14-03 [FR 03-00086]
Air programs:
Outer Continental Shelf Regulations—
California; consistency update; comments due by 2-12-03; published 1-13-03 [FR 03-00618]

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
Indiana; comments due by 2-10-03; published 1-10-03 [FR 03-00282]

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
Indiana; comments due by 2-10-03; published 1-10-03 [FR 03-00283]
Air quality implementation plans; approval and promulgation; various States:
Connecticut; comments due by 2-11-03; published 1-21-03 [FR 03-01239]

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States:
Indiana; comments due by 2-14-03; published 1-15-03 [FR 03-00616]

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States:
Indiana; comments due by 2-14-03; published 1-15-03 [FR 03-00617]

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and

compensated work therapy program; indemnity compensation; comments due by 2-10-03; published 12-12-02 [FR 02-31250]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.J. Res. 13/P.L. 108–4
Making further continuing appropriations for the fiscal year 2003, and for other purposes. (Jan. 31, 2003; 117 Stat. 8)
Last List January 15, 2003

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://hydra.gsa.gov/archives/publaws-l.html* or send E-mail to **listserv@listserv.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.