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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 230, 301, 316, 333, 337, and 410

RIN 3206–AJ 99

Organization of the Government for Personnel Management, Overseas Employment, Temporary and Term Employment, Recruitment and Selection for Temporary and Term Appointments Outside the Register, Examining System, and Training

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to implement certain Governmentwide human resources flexibilities contained in the Homeland Security Act of 2002. This regulation provides agencies with: increased flexibility in assessing applicants using alternative (category-based) rating and selection procedures; the ability to select qualified candidates for positions, including temporary and term positions, in the competitive service using direct-hire procedures; the authority to pay or reimburse the costs of academic degree training from appropriated or other available funds under specified conditions; and increased flexibility in the use of academic degree training to address agency-specific human capital requirements and objectives. This interim regulation will also remove part 333 of title 5, Code of Federal Regulations, Recruitment and Selection for Temporary and Term Appointments Outside the Register, and all related references to this part, including the authority to appoint using temporary appointments pending establishment of a register (TAPER).

DATES: These regulations are effective June 13, 2003. We will consider comments received on or before August 12, 2003.

ADDRESSES: Send, deliver or fax written comments to Ms. Ellen E. Tunstall, Deputy Associate Director for Talent and Capacity Policy, U.S. Office of Personnel Management, Room 6551, 1900 E Street, NW., Washington, DC 20415–9700; e-mail *employ@opm.gov*; fax: (202) 606–2329.

FOR FURTHER INFORMATION CONTACT: On alternative rating and selection procedures and direct-hire authority, Ms. Suzy Barker by telephone at (202) 606–0830, fax at (202) 606–2329 or by e-mail at *smbarker@opm.gov*. On emergency indefinite appointments, overseas employment, TAPER, and outside the register appointments, Ms. Diane Tyrrell by telephone at (202) 606–0830, fax at (202) 606–2329 or by e-mail at *dmtyrrel@opm.gov*. On training, Ms. LaVeen M. Ponds by telephone at (202) 606–1394, fax at (202) 606–2329 or by e-mail at *lmponds@opm.gov*. Ms. Barker, Ms. Tyrrell and Ms. Ponds may also be contacted by TTY at (202) 418–3134.

SUPPLEMENTARY INFORMATION: On November 25, 2002, the President signed the Homeland Security Act of 2002 (Act), Public Law 107–296, into law. This Act provides Federal agencies with a number of human resources (HR) flexibilities. These flexibilities include direct-hire authority and alternative (that is, category) rating and selection procedures, which will aid in recruitment and hiring. The Act also provides Federal agencies with the authority to pay or reimburse employees for the costs of academic degree training.

Direct-Hire Authority

Title 5 U.S.C. 3304 provides agencies with the authority to appoint candidates directly to jobs for which OPM determines that there is a severe shortage of candidates or a critical hiring need. The requirements and justification for the direct hire authorities are presented separately and distinct from each other in these interim regulations.

We are soliciting comments on whether we should combine the requirements and justification for a severe shortage of candidates and critical hiring needs into a single section or keep them in separate sections as written.

OPM may decide, on its own, that a severe shortage of candidates or a critical hiring need exists, either Governmentwide or in specified agencies, for one or more specific occupational series, grades (or equivalent), or geographic locations. Alternatively, an agency may, in a written request to OPM, identify the position(s) for which it believes a severe shortage or a critical hiring need exists. The agency must include relevant evidence, as described below, to support its request. Agencies that use this direct-hire authority must adhere to public notice requirements, as set forth in 5 U.S.C. 3327 and 3330, and 5 CFR part 330, subpart G.

To demonstrate that a severe shortage of candidates exists for a position or group of positions, an agency must provide information showing that it is unable to identify candidates possessing the competencies required to perform the necessary duties of the position despite extensive recruitment, extended announcement periods, and the use, as applicable, of hiring flexibilities such as recruitment and relocation incentives. In determining whether there is a severe shortage of candidates for a position or group of positions, OPM will consider all relevant evidence, including an agency's demonstrated recruitment efforts, human capital management strategic plans that forecast agency workforce needs, relevant analyses made in connection with an agency's workforce planning efforts, labor market data, and employment trends. OPM will also consider whether a nationwide or geographical skills shortage exists, as well as the extent to which the position(s) at issue are located in an undesirable geographic location, will require the incumbent to perform onerous or undesirable duties, or will require the incumbent to work under extraordinary or extreme conditions.

To prove that a critical hiring need exists, an agency must demonstrate that it has a critical need to fill the position or positions to meet mission requirements brought about by an exigency such as a national emergency, threat or potential threat, environmental disaster, or other unanticipated or unusual event or mission requirement. A critical hiring need may also be triggered by the need to conform to

requirements of law, Presidential directive or Administration initiative, or a congressional or other mandate to meet new or expanded mission requirements by a particular date. In a request for direct-hire authority due to a critical hiring need, an agency must provide sufficient evidence to demonstrate that filling the position(s) is critical to the agency's mission and that the use of other hiring authorities is impracticable or ineffective.

To provide agencies with the ability to use the new direct-hire authority, as appropriate, for temporary and term appointments, emergency-indefinite appointments in a national emergency, and overseas limited appointments, OPM is revising 5 CFR 230.402, Agency Authority to Make Emergency-indefinite Appointments in a National Emergency; 5 CFR part 301, subpart B, Overseas Limited Appointments; 5 CFR 316.302, Selection of Term Employees; and 5 CFR 316.402, Procedures for Making Temporary Appointments.

This interim regulation will add subpart B to 5 CFR part 337 and amends 5 CFR parts 230, 301 and 316.

Elimination of Outside-the-Register Procedures

OPM is eliminating 5 CFR part 333, Recruitment and Selection for Temporary and Term Appointments Outside the Register, based on its conclusion that this hiring authority is now obsolete.

The current outside-the-register procedure is available for use only when there is an insufficient number of eligibles on the appropriate register. OPM initially established these procedures to give agencies an alternative to traditional examining methods when there were not enough qualified eligibles on a particular register. The Act, however, provides OPM with the authority to permit agencies to utilize an alternative to traditional examining methods (*i.e.*, direct-hire authority) when there is a severe shortage of candidates possessing the competencies to perform the job requirements or a critical hiring need. Currently, agencies using outside-the-register procedures are required to provide public notice, apply veterans' preference, and provide selection priorities to certain displaced employees. These requirements are essentially the same as those for the new direct-hire authority. Based upon the foregoing, the current procedures for outside-the-register appointments under 5 CFR part 333 are duplicative and no longer needed, and we are therefore eliminating this regulation.

This interim regulation removes 5 CFR part 333.

Elimination of the TAPER Authority

Based on the elimination of the outside-the-register authority, OPM is also eliminating the Temporary Appointments Pending the Establishment of a Register (TAPER) authority. The TAPER authority was proposed for elimination in 1996, but was ultimately retained to provide agencies with a simplified examining process when filling Worker-Trainee (GS–1 and WG–1 and 2) positions with applicants who had limited education and experience. The decision to retain this authority thus was in response to the Governmentwide need, in connection with the ''Welfare to Work'' initiative, to provide opportunity for welfare recipients to enter the workforce.

Within the past several years, OPM has authorized the use of a number of alternative hiring flexibilities to assist agencies when recruiting individuals with limited education and experience. For example, in 1999, OPM gave agencies authority to use alternatives to the written test normally required when making appointments to clerical positions. These changes, combined with the flexibilities provided by the Act, give agencies the authority to bypass the selection procedures established in title 5 of the United States Code in appropriate circumstances, and therefore obviate the need for an authority to temporarily appoint an individual pending establishment of a register.

Eliminating this regulation will not adversely affect employees currently serving under TAPER appointments. These individuals will continue to work under these appointments until they have completed the 3 years of service that entitles them, under 5 U.S.C. 3304a, to be converted to career appointments. Based on the foregoing, there is no longer a need to retain the TAPER authority.

This interim regulation eliminates 5 CFR part 316, subpart B.

Category Rating and Selection Procedures

Title 5 U.S.C. 3319 provides agencies with the authority to develop a category-based rating method as an alternative way of assessing and rating job applicants for positions filled through the competitive examining process. Traditionally, applicants for Federal jobs are assigned numerical scores, including veterans' preference points, if appropriate, and are considered for selection based on the ''rule of three'' (5 U.S.C. 3318(a)). The category rating system prescribed by the Act does not add veterans' preference points or apply the ''rule of three'' but protects the rights of veterans by placing them ahead of non-preference eligibles within each category. For all positions other than scientific and professional positions at GS–9 (and equivalent) or higher, otherwise qualified preference eligibles who have a compensable service-connected disability of at least 10 percent must be listed in the highest quality category. This requirement is similar to the provisions of 5 U.S.C. 3313, which are used in numerical rating.

Under a category rating system, the agency assesses candidates against job-related criteria and then places candidates into two or more pre-defined categories. The categories are defined through a job analysis conducted in accordance with the ''*Uniform Guidelines on Employee Selection Procedures,*'' at 29 CFR part 1607 and 5 CFR part 300. The categories must be distinct from one another and clearly differentiate between the relative quality of candidates in each. For example, an agency could adopt a two-category system in which the higher category is used for those candidates who meet minimum qualifications and are highly proficient in all the requirements of the job, while the lower category is reserved for those candidates who meet the minimum qualifications and are proficient in some, but not all, of the requirements of the job. For each position to be filled, an agency must decide in advance if they will assess candidates using the traditional numerical ranking and ''rule of three'' procedures or category rating, and must publish this information in the job announcement. When using the category rating procedure, the job announcement must then clearly define the categories.

Specific guidance on using the category rating process will be included in OPM's Delegated Examining Operations Handbook (*www.opm.gov/deu/*).

The category rating process provides for selections to be made from the highest category or, if fewer than three candidates have been assigned to the highest quality category, in a merged category consisting of the highest and the second-highest quality categories. If a preference eligible is in the category, an agency may not select a non-preference eligible unless the agency requests to pass over the preference eligible, and its request is approved. Objections to a preference eligible must be processed by the agency's delegated

examining office in accordance with 5 U.S.C. 3318(b) and 5 CFR 332.406. In addition, agencies are required to follow the provisions of 5 CFR 330.606 and 330.705, pertaining to order of selection.

The Act requires agencies to submit an annual report to Congress on the use of their category rating and selection procedures. For oversight purposes, OPM has required agencies to forward a copy of these reports to OPM.

This interim regulation adds subpart C to 5 CFR part 337.

Expanded Academic Degree Training Authority

Section 1331(a) of the Act amends the provisions of 5 U.S.C. 4107 by expanding the authority of an agency to pay or reimburse employees for the cost of academic degree training when such training contributes significantly to meeting an identified agency training need, resolving an identified agency staffing problem, or accomplishing goals in the agency's human capital management strategic plan. Such training must be part of a planned, systemic, and coordinated agency employee development program linked to accomplishing strategic human capital goals. According to 5 U.S.C. 4107(b)(2) agencies may not provide such training for the sole purpose providing an academic degree or as a means of qualifying for a position that requires an academic degree. However, an agency may provide an employee with the opportunity to obtain an academic degree or qualify for an appointment to a particular position for which the degree is required provided that the training is consistent with the agency's human capital management strategic plan and that selection for such training follows established competitive procedures. The academic training program must be provided by a college or university that is accredited by a nationally recognized body. OPM is amending its regulations to reflect these changes.

Agencies that pay or reimburse employees for academic degree training must generally require the employee benefiting from such training to enter into a continued service agreement with the agency prior to attending the training. Continued service agreement requirements apply to both tuition reimbursement programs and academic degree training programs.

This interim regulation revises subpart C of 5 CFR part 410.

Executive Order 12866, Regulatory Review

This interim rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

Waiver of Delay of Effective Date

Pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to waive the delay in effective date and make these regulations effective in less than 30 days. The delay in the effective date is being waived because the program changes do not mandate but will give agencies needed flexibilities to recruit, hire and retain high quality candidates quickly and effectively to respond to changing and critical mission requirements. The General Accounting Office has designated strategic human capital management as a Governmentwide high-risk area citing serious human capital shortfalls that erode the ability of agencies to ''economically, efficiently and effectively perform their missions.'' The President's Management Agenda calls for agencies to ''flatten the Federal hierarchy, reduce the time to make decisions, and increase the number of employees that provide services to citizens. The reform also will pursue targeted civil service reforms, such as performance-based compensation and management flexibilities to recruit, retain, and reward a high-quality workforce.'' With 50% of Federal employees eligible for retirement in the coming years, agencies must have contemporary, flexible tools for workforce management. Recent media articles have highlighted the public perception that getting a Federal job takes too long and is far too complicated. The Government needs the very best applicants; in turn applicants deserve a streamlined, understandable application process. These changes will accommodate that need.

None of the three flexibilities proposed by these regulations are new or untried. In fact, category rating has been used successfully by some agencies for a decade or more under demonstration authority and enabling legislation. Studies of category rating as implemented by the Department of Agriculture indicate that employment of veterans increases and diversity is not reduced. Private-sector companies routinely use tuition payment as a strategy to attract and retain high quality employees.

These flexibilities were proposed after broad consultation with a variety of stakeholders including employees, managers and the human resources community. They long have been advocated by numerous public and private groups including the Merit Systems Protection Board and the Partnership for Public Service as forward thinking, solid human capital strategies that should be available Governmentwide rather that to a few select agencies.

Direct hire, in particular, is critical if agencies are to respond effectively to the needs of the Nation. With a nationwide shortage of nurses and other healthcare workers, the Government must be able to move quickly and efficiently to hire excellent candidates—direct hire would provide that flexibility. Without it, the staffing to provide care to veterans and others in Federal medical facilities is diminished. Similarly, the critical need to hire talented, highly skilled workers to respond to a national crisis including an environmental threat such a raging wildfire can not be left to traditional hiring methods designed decades ago.

The alternatives provided by these regulations are not mandatory but may be used strategically by agencies to improve the management of human capital, to meet mission requirements and to respond to the President's call for a Government that is citizen focus and results oriented. There is a compelling need to provide these flexibilities without delay.

Finally, OPM will issue final regulations within 1 year of the publication of these interim regulations or these regulations will sunset.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because they would only apply to Federal agencies and employees.

List of Subjects in 5 CFR Parts 230, 301, 316, 333, 337, and 410

Civil defense, Education, Government employees.

Office of Personnel Management.

Kay Coles James,

Director.

■ Accordingly, OPM is amending parts 230, 301, 316, 333, 337, and 410 of title 5 of the Code of Federal Regulations, as follows:

PART 230—ORGANIZATION OF THE GOVERNMENT FOR PERSONNEL MANAGEMENT

■ 1. The authority for part 230 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577; 3 CFR 1954–1958 Comp., p. 218; sec. 230.401 also issued under 5 U.S.C. 1104.

Subpart D—Agency Authority To Take Personnel Actions in a National Emergency

■ 2. Revise § 230.402 paragraphs (c), (h)(1), and (h)(2) to read as follows:

§ 230.402 Agency authority to make emergency-indefinite appointments in a national emergency.

* * * * *

(c) *Appointment under direct-hire authority.* An agency may make emergency-indefinite appointments under this section using the direct-hire procedures in part 337 of this chapter.

* * * * *

(h)(1) The term *indefinite employee* includes an emergency-indefinite employee or an employee under an emergency appointment as used in the following: Parts 351, 353 of this chapter, subpart G of part 550 of this chapter, and part 752 of this chapter.

(2) The selection procedures of part 337 of this chapter apply to emergency-indefinite appointments that use the direct-hire authority under paragraph (c) of this section.

* * * * *

PART 301—OVERSEAS EMPLOYMENT

■ 3. The authority citation continues to read as follows:

Authority: 5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218, as amended by E.O. 10641, 3 CFR 1954–1958 Comp., p. 274, unless otherwise noted.

Subpart B—Overseas Limited Appointment

■ 4. Revise § 301.201 to read as follows:

§ 301.201 Appointments of United States citizens recruited overseas.

When there is a shortage of eligible applicants resulting from a competitive announcement, an agency may give an overseas limited appointment to a United States citizen recruited for a position overseas.

■ 5. Revise § 301.205 to read as follows:

§ 301.205 Requirements and restrictions.

The requirements and restrictions in subpart F of part 300 of this chapter apply to appointments under this subpart.

PART 316—TEMPORARY AND TERM EMPLOYMENT

■ 6. The authority citation continues to read as follows:

Authority: 5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.

Subpart B—[Reserved]

■ 7. Remove and reserve Subpart B (§§ 316.201 and 316.202).

Subpart C—Term Employment

■ 8. Revise § 316.302 paragraph (a) to read as follows:

§ 316.302 Selection of term employees.

(a) *Competitive term appointments.* An agency may make a term appointment under part 332 of this title, by using competitive procedures, or under part 337 of this title, by using direct-hire procedures, as appropriate.

* * * * *

Subpart D—Temporary Limited Employment

■ 9. Revise § 316.402 paragraph (a) to read as follows:

§ 316.402 Procedures for making temporary appointments.

(a) *Competitive temporary appointments.* In accordance with the time limits in § 316.401 of this chapter, an agency may make a temporary appointment under part 332 of this title, by using competitive procedures, or under part 337 of this title, by using direct-hire procedures, as appropriate.

* * * * *

PART 333—[REMOVED AND RESERVED]

■ 10. Remove and reserve Part 333.

PART 337—EXAMINING SYSTEM

■ 11. Remove the authority citations for §§ 337.101 and 337.102 and add an authority citation for part 337 to read as follows:

Authority: 5 U.S.C. 1104(a) (2), 1302, 3301, 3302, 3304, 3319, 5364, E.O. 10577 (3 CFR 1954–1958 Comp., p. 218); 33 FR 12423, Sept. 4, 1968; and 45 FR 18365, Mar. 21, 1980.

■ 12. Add Subpart B to part 337 to read as follows:

Subpart B—Direct-Hire Authority

Sec.

337.201 Coverage and purpose.
337.202 Definitions.
337.203 Public notice requirements.
337.204 Severe shortage of candidates.
337.205 Critical hiring needs.
337.206 Terminations, modifications, extensions and reporting.
337.207 Sunset.

Subpart B—Direct-Hire Authority

§ 337.201 Coverage and purpose.

OPM will permit an agency with delegated examining authority under 5 U.S.C. 1104(a) (2) to use direct-hire authority under 5 U.S.C. 3304 for a position or group of positions if OPM determines that there is either a severe shortage of candidates or a critical hiring need for such positions.

§ 337.202 Definitions.

In this subpart:

(a) A *direct-hire authority* permits hiring without regard to the provisions of 5 U.S.C. 3309 through 3318, and parts 211 and 337, subpart A of this chapter.

(b) A *severe shortage of candidates* for a particular position or group of positions means that an agency is unable to identify candidates possessing the competencies required to perform the job requirements despite extensive recruitment, extended announcement periods, and the use, as applicable, of hiring flexibilities such as recruitment and relocation incentives.

(c) A *critical hiring need* for a particular position or group of positions means that an agency has a need to fill the position(s) to meet mission requirements brought about by an emergency, potential threat, or unanticipated or unusual mission requirement, or to conform to the requirements of law, a Presidential directive or Administration initiative, or an unexpected event outside of an agency's control.

§ 337.203 Public notice requirements.

Agencies must comply with public notice requirements, as prescribed in 5 U.S.C. 3327 and 3330, and part 330, subpart G of this chapter with respect to any position that an agency seeks to fill using direct-hire authority.

§ 337.204 Severe shortage of candidates.

(a) OPM will determine when a severe shortage of candidates exists for particular occupations, grades (or equivalent), and/or geographic locations. OPM may decide on its own that such a shortage exists, or may make this decision in response to a written request from an agency.

(b) In a request for direct-hire authority under this section, an agency must identify the position(s) it is unable to fill and must include supporting evidence that demonstrates the existence of a severe shortage of candidates with respect to the position(s). The evidence should include, as applicable, information about:

(1) The results of workforce planning and analysis;

(2) Employment trends including the local or national labor market;

(3) The existence of nationwide or geographic skills shortages;

(4) Agency efforts including recruitment initiatives, use of other appointing authorities (*e.g.*, schedule A, schedule B) and flexibilities, training and development programs tailored to the position(s), and an explanation of why these recruitment and training efforts have not been sufficient;

(5) The availability and quality of candidates;

(6) The desirability of the geographic location of the position(s);

(7) The desirability of the duties and/or work environment associated with the position(s); and

(8) Other pertinent information such as selective placement factors or other special requirements of the position, as well as the agency's use of hiring flexibilities such as recruitment or retention allowances.

§ 337.205 Critical hiring needs.

(a) OPM will determine when there is a critical hiring need for particular occupations, grades (or equivalent) and/or geographic locations. OPM may decide on its own that there is such a need, or may make this decision in response to a written request from an agency.

(b) In a request for direct-hire authority under this section, an agency must:

(1) Identify the position(s) that it must fill;

(2) Describe the event or circumstance that has created the need to fill the position(s);

(3) Specify the duration for which the critical need is expected to exist; and

(4) Include supporting evidence that demonstrates why the use of other hiring authorities is impracticable or ineffective.

§ 337.206 Terminations, modifications, extensions, and reporting.

(a) *Termination and modification.* On a periodic basis, for each direct-hire authority that it previously granted, OPM will review the appropriate agency's use of the authority to ensure that the agency is using the authority properly and to determine if the agency's continued use of the authority is supportable. OPM will terminate or modify a direct-hire authority previously granted to an agency if OPM determines that there is no longer a severe shortage of candidates or a critical hiring need. OPM may also terminate an agency's authority when the agency has used its authority improperly.

(b) *Extension.* OPM may extend an agency's direct-hire authority if OPM determines that there is or will continue to be a severe shortage of candidates or a critical hiring need with respect to a particular position as of the date on which the agency's authority is due to expire.

(c) *Reporting requirement.* On a periodic basis, OPM may request information from agencies regarding their use of these direct-hire authorities.

§ 337.207 Sunset.

The authority to use direct hire authority terminates June 14, 2004.

■ 13. Add Subpart C to part 337 to read as follows:

Subpart C—Alternative Rating and Selection Procedures

Sec.

337.301 Coverage and purpose.
337.302 Definitions.
337.303 Agency responsibilities.
337.304 Veterans' preference.
337.305 Reporting requirements.
337.306 Sunset.

Subpart C—Alternative Rating and Selection Procedures

§ 337.301 Coverage and purpose.

This subpart implements the category rating and selection procedures at 5 U.S.C. 3319. This law authorizes agencies with delegated examining authority under 5 U.S.C. 1104(a)(2) to develop a category rating method as an alternative process to assess applicants for jobs filled through competitive examining.

§ 337.302 Definitions.

In this subpart:

(a) *Category rating* is synonymous with alternative rating as described at 5 U.S.C. 3319, and is a process of evaluating qualified eligibles by quality categories rather than by assigning individual numeric scores. The agency assesses candidates against job-related criteria and then places them into two or more pre-defined categories.

(b) *Quality categories* are groupings of individuals with similar levels of job-related knowledge, skills, abilities, or competencies.

§ 337.303 Agency responsibilities.

To use a category rating system, agencies must:

(a) Establish a system for evaluating applicants that provides for two or more quality categories;

(b) Define each quality category through job analysis conducted in accordance with the *''Uniform Guidelines on Employee Selection Procedures''* at 29 CFR part 1607 and part 300 of this chapter. Each category must have a clear definition that distinguishes it from other categories;

(c) Describe each quality category in the job announcement and apply the provisions of part 330, subparts B, F and G of this chapter;

(d) Place applicants into categories based upon their job-related knowledge, skills, abilities or competencies; and

(e) Establish documentation and record-keeping procedures for reconstruction purposes.

§ 337.304 Veterans' preference.

In this subpart:

(a) Veterans' preference must be applied as prescribed in section 1312(a)(2) of Public Law 107–296, the Homeland Security Act, and codified at 5 U.S.C. 3319; and

(b) Veterans' preference points as prescribed in § 337.101 are not applied in category rating.

§ 337.305 Reporting requirements.

Any agency that uses category rating must forward to OPM a copy of the annual report that it must submit to Congress pursuant to 5 U.S.C. 3319.

§ 337.306 Sunset.

The authority to use category rating terminates June 14, 2004.

PART 410—TRAINING

■ 14. Revise the authority citation in part 410 to read as follows:

Authority: 5 U.S.C. 4101, et seq., 4107; E.O. 11348, and (3 CFR, 1967 Comp., p. 275).

Subpart C—Establishing and Implementing Training Programs

■ 15. Revise § 410.308 to read as follows:

§ 410.308 Training to obtain an academic degree.

(a) An agency may authorize training for an employee to obtain an academic degree under conditions as prescribed at 5 U.S.C. 4107(a).

(b) Colleges and universities used in an academic degree training program must be accredited by a nationally recognized body. A ''nationally recognized body'' is a regional, national, or international accrediting organization recognized by the U.S. Department of Education. The listing of accrediting bodies is available at the Department.

(c) The selection of employees for an academic degree training program must follow the requirements of § 335.103(b)(3) and part 300, subpart A of this chapter. Subject to the additional requirement that the purpose of the selection and assignment is to accomplish an identified goal consistent with the agency's human capital management strategic plan, an agency may competitively select and assign an employee to an academic degree training program that qualifies the

employee for promotion to a higher graded position or to a position that requires an academic degree.

(d) Agency heads must assess and maintain records on the effectiveness of training assignments under this section.

(e) On a periodic basis, OPM may request agency information on the use and effectiveness of training assignments under this section.

(f) The authority to authorize training for an employee to obtain an academic degree terminates June 14, 2004.

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 831 and 842

RIN 3206–AJ82

Voluntary Early Retirement Under the Homeland Security Act of 2002

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim voluntary early retirement authority (VERA) regulations. These regulations implement the VERA provisions of the Homeland Security Act of 2002, which apply to most executive branch agencies. These interim regulations explain how an agency requests authority from OPM to offer voluntary early retirement to its employees.

DATES: These regulations are effective June 13, 2003. OPM will consider written comments if received no later than August 12, 2003.

ADDRESSES: Send written comments to Ellen E. Tunstall, Deputy Associate Director for Talent and Capacity Policy, Office of Personnel Management, Room 6500, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Charles W. Gray at 202–606–0960, FAX at 202–606–2329, TTY at 202–418–3134, or e-mail at *cwgray@opm.gov.*

SUPPLEMENTARY INFORMATION Section 1313(b) of the ''Homeland Security Act of 2002'' (Public Law 107–296, 116 Stat. 2135) provides agencies the option to offer voluntary early retirement when restructuring as well as when downsizing. Previously, voluntary early retirement was only available in downsizing situations.

Subsection 1313(b)(1) of Public Law 107–296 covers employees under the Civil Service Retirement System (CSRS), and is codified in 5 U.S.C. 8336(d)(2). Section 831.114 is revised to implement the new voluntary early retirement provisions under CSRS.

Subsection 1313(b)(2) of Public Law 107–296 covers employees under the Federal Employees Retirement System (FERS), and is codified in 5 U.S.C. 8414(b)(1). Section 842.213 is revised to implement the new voluntary early retirement provisions under FERS.

The voluntary early retirement provisions are the same under CSRS and FERS. The revised regulations explain which employees are potentially eligible for voluntary early retirement, how an agency requests voluntary early retirement authority from OPM, and how the agency manages the voluntary early retirement authority after approval.

Under the interim regulations, an agency's human capital plan and/or voluntary separation incentive plan may be used to satisfy the requirements for requesting a voluntary early retirement authority if it contains the information required in the VERA regulations.

Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking. Also, pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to make this rule effective in less than 30 days.

OPM has already promulgated interim regulations regarding use of the Voluntary Separation Incentive Payment (VSIP) authority pursuant to Congressional mandate. While agencies may now receive OPM approval to use VSIP to reshape their workforces, they cannot use VERA for that purpose until these regulations are available. In this case, compliance with notice and comment procedures, as well as with the 30-day waiting period, would severely undercut the usefulness of the VSIP authority and would deny employees who have not attained full retirement eligibility the opportunity to be considered for VSIPs. The alternative to reshaping the workforce through voluntary measures such as early retirement is generally reduction in force—a tool that is disruptive and costly both to employees and agencies. The inability of agencies to offer this option to employees undermines the intent of Congress and the Administration in providing agencies with the ability to use both the VERA and VSIP flexibilities for workforce reshaping and impacts employee options for ''soft landings.''

This regulation is needed to allow agencies to immediately use the VERA flexibilities that Congress accorded to them in the Homeland Security Act (Act). Prior to the enactment of this Act, agencies could obtain from OPM the authority to offer individuals voluntary early retirement based on a need to downsize. Also, if they had their own VSIP law, they could offer VSIP to their employees on the same basis. In the Act, however, Congress introduced the ability to request authority from OPM to offer VERA or VSIP, or both, based on a need for workforce reshaping. This is a flexibility that Congress deemed necessary to ensure that agencies could accomplish their respective missions, which, in many cases, have changed significantly since September 11, 2001. The VERA flexibility is designed so that it may be used in tandem with the VSIP flexibility. In fact, the VSIP authority may be ineffective in some instances, or not fully effective, if there is not a corresponding VERA authority to allow employees to retire early.

Moreover, delaying the effective date for OPM's VERA regulations could lessen the usefulness of VSIPs for reshaping this year. The financial advantage of VSIP rapidly diminishes the later it is used in a fiscal year, because the cost of the VSIP payment and the payout for accrued leave is more likely to exceed the amount of the employee's salary for the remainder of the year. Congress's inclusion of the new VERA flexibilities in the Homeland Security Act indicates that it intended for agencies to use these flexibilities this year. Waiver of the requirements regarding notice, comment, and the effective date is necessary to ensure that Congress' intent is honored.

Finally, OPM will issue final regulations within 1 year of the publication of these interim regulations or these regulations will sunset.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only certain Federal employees.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects

5 CFR Part 831

Administrative practice and procedure, Alimony, Claims, Firefighters, Government employees,

Income taxes, Intergovernmental regulations, Law enforcement officers, Pensions, Reporting and recordkeeping requirements, Retirement.

5 CFR Part 842

Air Traffic Controllers, Alimony, Firefighters, Government employees, Law enforcement officers, Pensions, Retirement.

Office of Personnel Management.

Kay Coles James,

Director.

■ Accordingly, OPM amends parts 831 and 842 of title 5, Code of Federal Regulations, as follows:

PART 831—RETIREMENT

■ 1. The authority citation for part 831 is revised to read as follows:

Authority: 5 U.S.C. 8347; Sec. 831.102 also issued under 5 U.S.C. 8334; Sec. 831.106 also issued under 5 U.S.C. 552a; Sec. 831.108 also issued under 5 U.S.C. 8336(d)(2); Sec. 831.114 also issued under 5 U.S.C. 8336(d)(2), and section 1313(b)(5) of Pub. L. 107–296, 116 Stat. 2135; Sec. 831.201(b)(1) also issued under 5 U.S.C. 8347(g); Sec. 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); Sec. 831.201(g) also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; Sec. 831.201(g) also issued under sections 7(b) and 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 831.201(i) also issued under sections 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; Sec. 831.204 also issued under section 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by section 153 of Pub. L. 104–134, 110 Stat. 1321; Sec. 831.205 also issued under section 2207 of Pub. L. 106–265, 114 Stat. 784; Sec. 831.301 also issued under section 2203 of Pub. L. 106–265, 114 Stat. 780; Sec. 831.303 also issued under 5 U.S.C. 8334(d)(2) and section 2203 of Pub. L. 106–235, 114 Stat. 780; Sec. 831.502 also issued under 5 U.S.C. 8337; Sec. 831.502 also issued under section 1(3), E.O. 11228, 3 CFR 1964–1965 Comp. p. 317; Sec. 831.663 also issued under sections 8339(j) and (k)(2); Secs. 831.663 and 831.664 also issued under section 11004(c)(2) of Pub. L. 103–66, 107 Stat. 412; Sec. 831.682 also issued under section 201(d) of Pub. L. 99–251, 100 Stat. 23; Sec. 831.912 also issued under Appendix C to Pub. L. 106–554, 114 Stat. 2763A–125; subpart V also issued under 5 U.S.C. 8343a and section 6001 of Pub. L. 100–203, 101 Stat. 1330–275; Sec. 831.2203 also issued under section 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388–328.

Subpart A—Administration and General Provisions

■ 2. Section 831.114 is revised to read as follows:

§ 831.114 Voluntary early retirement-substantial delayering, reorganization, reduction in force, transfer of function, or other workforce restructuring.

(a) A ''specific designee'' is defined as a senior officer or official within an agency who has been specifically designated to sign requests for voluntary early retirement authority for or in place of the head of the agency. Examples include the Chief Human Capital Officer or the Assistant Secretary for Administration.

(b) 5 U.S.C. 8336(d)(2) covers both the basis for an agency's request for voluntary early retirement authority and OPM's subsequent determination concerning the request.

(c) An agency's request for voluntary early retirement authority must be signed by the head of the agency or by a specific designee with that authority.

(d) The request must contain the following information:

(1) Identification of the agency or organizational unit(s) for which the agency requests the authority;

(2) Reasons why the agency needs voluntary early retirement authority. This must include a detailed summary of the agency's personnel and/or budgetary situation that will result in an excess of personnel because of a substantial delayering, reorganization, reduction in force, transfer of function, or other workforce restructuring or reshaping, consistent with agency human capital goals;

(3) The date on which the agency expects to effect the substantial delayering, reorganization, reduction in force, transfer of function, or other workforce restructuring or reshaping;

(4) The time period during which the agency plans to offer voluntary early retirement;

(5) The total number of non-temporary employees in the agency (or specified component(s));

(6) The total number of non-temporary employees in the agency (or specified component(s)) who may be involuntarily separated, downgraded, transferred, or reassigned as a result of the substantial delayering, reorganization, reduction in force, transfer of function, or other workforce restructuring or reshaping;

(7) The total number of employees in the agency (or specified component(s)) who are eligible for voluntary early retirement;

(8) An estimate of the total number of employees in the agency (or specified component(s)) who are expected to retire early during the period covered by the request for voluntary early retirement authority; and

(9) A description of the types of personnel actions anticipated as a result of the agency's need for voluntary early retirement authority. (Examples include separations, transfers, reassignments, and downgradings.)

(e) OPM will evaluate a request for voluntary early retirement based on:

(1) A specific request to OPM from the agency for voluntary early retirement authority;

(2) A voluntary separation incentive payment implementation plan, as discussed in part 576, subpart A, of this chapter, which must outline the intended use of the incentive payments and voluntary early retirement; or

(3) The agency's human capital plan, which must outline its intended use of voluntary separation incentive payments and voluntary early retirement authority, and the changes in organizational structure it expects to make as the result of projected separations and early retirements.

(f) Regardless of the method used, the request must include all of the information required by paragraph (d) of this section.

(g) OPM may approve an agency's request for voluntary early retirement authority to cover the entire period of the substantial delayering, reorganization, reduction in force, transfer of function, or other workforce restructuring or reshaping described by the agency, or the initial portion of that period with a requirement for subsequent information and justification if the period covers multiple years.

(h) After OPM approves an agency's request, the agency must immediately notify OPM of any subsequent changes in the conditions that served as the basis for the approval of the voluntary early retirement authority. Depending upon the circumstances involved, OPM will modify the authority as necessary to better suit the agency's needs.

(i) The agency may limit voluntary early retirement offers based on:

(1) An established opening and closing date that is announced to employees at the time of the offer; or

(2) The acceptance of a specified number of applications for voluntary early retirement, provided that, at the time of the offer, the agency notified employees that it retained the right to limit the number of voluntary early retirements.

(j) Within the timeframe specified for its approved VERA, the agency may subsequently establish a new or revised closing date, or reduce or increase the number of early retirement applications it will accept, if management's downsizing and/or reshaping needs change. If the agency issues a revised closing date, or a revised number of applications to be accepted, the new date or number of applications must be announced to the same group of employees included in the original announcement. If the agency issues a

new window period with a new closing date, or a new instance of a specific number of applications to be accepted, the new window period or number of applications to be accepted may be announced to a different group of employees as long as they are covered by the approved VERA.

(k) An employee who separates from the service voluntarily after completing 25 years of service, or becoming age 50 and completing 20 years of service, is entitled to an annuity if, on the date of separation, the employee:

(1) Is serving in a position covered by a voluntary early retirement offer; and

(2) Meets the conditions covered in 5 U.S.C. 8336(d)(2).

(l) Agencies are responsible for ensuring that employees are not coerced into voluntary early retirement. If an agency finds any instances of coercion, it must take appropriate corrective action.

(m) An agency may not offer or process voluntary early retirements beyond the stated expiration date of a VERA or offer early retirements to employees who are not within the scope of the VERA approved by OPM.

(n) OPM may terminate a voluntary early retirement authority if it determines that the agency is no longer undergoing the condition(s) that formed the basis for its approval.

(o) OPM may amend, limit, or terminate a voluntary early retirement authority to ensure that voluntary early retirement authority regulations are being properly followed.

(p) Agencies must provide OPM with interim and final reports for each voluntary early retirement authority, as covered in OPM's approval letter to the agency. OPM may suspend or cancel a voluntary early retirement authority if the agency is not in compliance with the reporting requirements or reporting schedule specified in OPM's voluntary early retirement authority approval letter.

(q) The terms, conditions, and procedures in this section do not apply to the General Accounting Office.

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

■ 3. The authority citation for part 842 is revised to read as follows:

Authority: 5 U.S.C. 8461(g); Secs. 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); Sec. 842.104 also issued under sections 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); Sec. 842.106 also issued under section 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by section 153 of Pub. L. 104–134, 110 Stat. 1321; Sec. 842.107 also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; Sec. 842.107 also issued under section 7(b) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.108 also issued under section 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.213 also issued under 5 U.S.C. 8414(b)(1)(B) and section 1313(b)(5) of Pub. L. 107–296, 116 Stat. 2135; Secs. 842.604 and 842.611 also issued under 5 U.S.C. 8417; Sec. 842.607 also issued under 5 U.S.C. 8416 and 8417; Sec. 842.614 also issued under 5 U.S.C. 8419; Sec. 842.615 also issued under 5 U.S.C. 8418; Sec. 842.703 also issued under section 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388; Sec. 842.707 also issued under section 6001 of Pub. L. 100–203, 101 Stat. 1300; Sec. 842.708 also issued under section 4005 of Pub. L. 101–239, 103 Stat. 2106 and section 7001 of Pub. L. 101–508, 104 Stat. 1388; subpart H also issued under 5 U.S.C. 1104; Sec. 842.810 also issued under Appendix C to Pub. L. 106–554, 114 Stat. 2763A–125.

Subpart B—Eligibility

■ 4. Section 842.213 is revised to read as follows:

§ 842.213 Voluntary early retirement-substantial delayering, reorganization, reduction in force, transfer of function, or other workforce restructuring.

(a) A ''specific designee'' is defined as a senior officer or official within an agency who has been specifically designated to sign requests for voluntary early retirement authority for or in place of the head of the agency. Examples include the Chief Human Capital Officer or the Assistant Secretary for Administration.

(b) 5 U.S.C. 8414(b)(1)(B) covers both the basis for an agency's request for voluntary early retirement authority and OPM's subsequent determination concerning the request.

(c) An agency's request for voluntary early retirement authority must be signed by the head of the agency or by a specific designee with that authority.

(d) The request must contain the following information:

(1) Identification of the agency or organizational unit(s) for which the agency requests the authority;

(2) Reasons why the agency needs voluntary early retirement authority. This must include a detailed summary of the agency's personnel and/or budgetary situation that will result in an excess of personnel because of a substantial delayering, reorganization, reduction in force, transfer of function, or other workforce restructuring or reshaping, consistent with agency human capital goals;

(3) The date on which the agency expects to effect the substantial delayering, reorganization, reduction in force, transfer of function, or other workforce restructuring or reshaping;

(4) The time period during which the agency plans to offer voluntary early retirement;

(5) The total number of non-temporary employees in the agency (or specified component(s));

(6) The total number of non-temporary employees in the agency (or specified component(s)) who may be involuntarily separated, downgraded, transferred, or reassigned as a result of the substantial delayering, reorganization, reduction in force, transfer of function, or other workforce restructuring or reshaping;

(7) The total number of employees in the agency (or specified component(s)) who are eligible for voluntary early retirement;

(8) An estimate of the total number of employees in the agency (or specified component(s)) who are expected to retire early during the period covered by the request for voluntary early retirement authority; and

(9) A description of the types of personnel actions anticipated as a result of the agency's need for voluntary early retirement authority. (Examples include separations, transfers, reassignments, and downgradings.)

(e) OPM will evaluate a request for voluntary early retirement based on:

(1) A specific request to OPM from the agency for voluntary early retirement authority;

(2) A voluntary separation incentive payment implementation plan, as discussed in part 576, subpart A, of this chapter, which must outline the intended use of the incentive payments and voluntary early retirement; or

(3) The agency's human capital plan, which must outline its intended use of voluntary separation incentive payments and voluntary early retirement authority, and the changes in organizational structure it expects to make as the result of projected separations and early retirements.

(f) Regardless of the method used, the request must include all of the information required by paragraph (d) of this section.

(g) OPM may approve an agency's request for voluntary early retirement authority to cover the entire period of the substantial delayering, reorganization, reduction in force, transfer of function, or other workforce restructuring or reshaping described by the agency, or the initial portion of that period with a requirement for subsequent information and justification if the period crosses multiple years.

(h) After OPM approves an agency's request, the agency must immediately

notify OPM of any subsequent changes in the conditions that served as the basis for the approval of the voluntary early retirement authority. Depending upon the circumstances involved, OPM will modify the authority as necessary to better suit the agency's needs.

(i) The agency may limit voluntary early retirement offers based on:

(1) An established opening and closing date that is announced to employees at the time of the offer; or

(2) The acceptance of a specified number of applications for voluntary early retirement, provided that, at the time of the offer, the agency notified employees that it retained the right to limit the number of voluntary early retirements.

(j) Within the timeframe specified for its approved VERA, the agency may subsequently establish a new or revised closing date, or reduce or increase the number of early retirement applications it will accept, if management's downsizing and/or reshaping needs change. If the agency issues a revised closing date, or a revised number of applications to be accepted, the new date or number of applications must be announced to the same group of employees included in the original announcement. If the agency issues a new window period with a new closing date, or a new instance of a specific number of applications to be accepted, the new window period or number of applications to be accepted may be announced to a different group of employees as long as they are covered by the approved VERA.

(k) An employee who separates from the service voluntarily after completing 25 years of service, or becoming age 50 and completing 20 years of service, is entitled to an annuity if, on the date of separation, the employee:

(1) Is serving in a position covered by a voluntary early retirement offer; and

(2) Meets the conditions covered in 5 U.S.C. 8414(b)(1)(B).

(l) Agencies are responsible for ensuring that employees are not coerced into voluntary early retirement. If an agency finds any instances of coercion, it must take appropriate corrective action.

(m) An agency may not offer or process voluntary early retirements beyond the stated expiration date of a VERA or offer early retirements to employees who are not within the scope of the VERA approved by OPM.

(n) OPM may terminate a voluntary early retirement authority if it determines that the agency is no longer undergoing the condition(s) that formed the basis for its approval.

(o) OPM may amend, limit, or terminate a voluntary early retirement authority to ensure that voluntary early retirement authority regulations are being properly followed.

(p) Agencies must provide OPM with interim and final reports for each voluntary early retirement authority, as covered in OPM's approval letter to the agency. OPM may suspend or cancel a voluntary early retirement authority if the agency is not in compliance with the reporting requirements or reporting schedule specified in OPM's voluntary early retirement authority approval letter.

(q) The terms, conditions, and procedures in this section do not apply to the General Accounting Office.

(r) The authority to VERA to restructure the workforce terminates June 14, 2004.

[FR Doc. 03–14970 Filed 6–10–03; 4:46 pm]

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DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 1, 103, 239 and 287

[ICE No. 2274–03]

RIN 1653 AA26

Powers and Authority of Officers and Employees; Revisions to the Internal Review Process for Alleged Violations of the Standards for Enforcement Activities

AGENCY: Department of Homeland Security.

ACTION: Final rule.

SUMMARY: On November 25, 2002, the President signed into law the Homeland Security Act of 2002 (Pub. L. 107–296) (HSA), which created the new Department of Homeland Security (Department or DHS). Pursuant to the provisions of the HSA, DHS came into existence on January 24, 2003. The functions of the Immigration and Naturalization Service (Service) and all authorities with respect to those functions, transferred to DHS on March 1, 2003, and the Service was abolished on that date, pursuant to the HSA and the Department of Homeland Security Reorganization Plan, as modified (Reorganization Plan). The transition and savings provisions of the HSA, including sections 1512(d) and 1517, provide that references relating to the Service in statutes, regulations, directives or delegations of authority shall be deemed to refer to the appropriate official or component of DHS. DHS is promulgating this rule to continue the process of conforming the text of Title 8 of the Code of Federal Regulations to the governmental structures established in the HSA and Reorganization Plan. This rule is not intended to and does not restrict or otherwise limit the authority of any DHS officer.

DATES: This final rule is effective June 13, 2003.

FOR FURTHER INFORMATION CONTACT: Catherine Muhletaler, Bureau of Immigration and Customs Enforcement, Office of General Counsel, 425 I Street, NW., Room 6100, Washington, DC 20536, telephone (202) 514–2895.

SUPPLEMENTARY INFORMATION

Explanation of Changes

First, the final rule expands the definitions of the terms ''Service,'' ''Commissioner,'' and ''director'' at 8 CFR 1.1. Definitions for the terms ''Department,'' ''Secretary,'' and ''Bureau'' have been added. Definitions have also been added for ''BCIS,'' ''CBP,'' and ''ICE,'' which are the acronyms for the bureaus within DHS that have been delegated the authorities of the former Service. The definitions provide clarification that the functions of the legacy components of the Service continue under the Department. The definitions refer to the ''Service'' in recognition that the term ''Service'' continues to be used throughout Title 8 of the Code of Federal Regulations, and this final rule amends only limited portions of that title.

Second, the term ''immigration enforcement agent'' has been added to 8 CFR 103.1(b) in recognition of an ongoing modification to the field structure of the Bureau of Immigration and Customs Enforcement (ICE). As part of a position reclassification the immigration agent position (within the investigations program of ICE) and the detention enforcement officer position (within the detention and removal program of ICE) will be combined and reclassified into the immigration enforcement agent position. Immigration enforcement agents will have responsibilities that include the identification and processing of detained criminal aliens within the institutional removal program.

Third, the final rule revises the regulation at 8 CFR 239.1 that delegates authority to issue notices to appear. In his discretion, the Secretary of Homeland Security has published this delegation of authority to issue notices to appear in the Code of Federal Regulations, cross-referencing his general delegation authority under 8 CFR 2.1. The list of officers authorized

to issue notices to appear is amended to reflect the ongoing reorganization of functions of the former Service among the Bureau of Citizenship and Immigration Services, the Bureau of Customs and Border Protection, and the Bureau of Immigration and Customs Enforcement. Removed from the list of those authorized to issue a notice to appear is the Director of Juvenile Affairs, based on the transfer of functions with respect to the care of unaccompanied alien children to the Department of Health and Human Services pursuant to section 462 of the Homeland Security Act of 2002, as amended, 6 U.S.C. 279.

Fourth, the final rule revises 8 CFR 287 part 1 with respect to the powers and authority of officers and employees of these three bureaus. Deportation officers have been provided the authority to execute search warrants under 8 CFR 287.5(e)(1).

In recognition of the position reclassification of detention enforcement officers to immigration enforcement agents, the term ''immigration enforcement agent'' is added to the existing term of ''detention enforcement officer'' in 8 CFR 103.1(b), 287.5(c)(6), 287.5(e)(3), 287.5(f), 287.8(a)(1)(iv) and 287.8(a)(2)(iii). Pursuant to their duties and responsibilities within the institutional removal program, immigration enforcement agents are delegated the authority to make arrests under 8 CFR 287.5(c)(1), and 8 CFR 287.5(c)(2), to conduct searches under 8 CFR 287.5(d), to execute search warrants under 287.5(e)(1), to serve warrants of arrest for non-immigration violations under 287.5(e)(4), and to issue detainers under 8 CFR 287.7(b).

Fifth, the final rule revises the regulation at 8 CFR 287.10 regarding the internal review process for alleged violations of the standards for enforcement activities to replace the references to offices within the Department of Justice that had been responsible for reviewing such allegations with the appropriate offices within DHS.

Sixth, the final rule revises or removes several paragraphs in 8 CFR 239.2 (cancellation of notices to appear), 8 CFR 287.3 (aliens arrested without warrant), and 8 CFR 287.4 (subpoenas), to reflect the recodification of regulations governing immigration proceedings. Under the HSA, the Executive Office for Immigration Review (EOIR), including the immigration judges and the Board of Immigration Appeals, remain in the Department of Justice, and the regulations pertaining to proceedings before EOIR have been codified in Chapter V of 8 CFR. Accordingly, this final rule makes conforming changes to 8 CFR 239.2, 287.3, and 287.4 in recognition that the regulations governing immigration proceedings before the immigration judges and the Board are now codified at 8 CFR 1003 *et seq.* (including with reference to this rule, 8 CFR 1003.14, 1239.2, 1287.4, and 1292.2).

Finally, the rule revises the regulation at 8 CFR 287.8 by adding a new subsection (g) which states that the criminal law enforcement activities authorized under this rule will be exercised in a manner consistent with all applicable DHS and Department of Justice guidelines and policies.

Good Cause Exception

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking or delayed effective date is unnecessary as this rule relates to agency organization and management. Accordingly, it is not a ''rule'' as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)), and the reporting requirement of 5 U.S.C. 801 does not apply.

Executive Order 12866

This rule making is limited to agency organization, management or personnel matters, and therefore is not a regulation or rule as defined by Executive Order 12866. It has also been determined that this rulemaking is not a significant regulatory action for the purposes of Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply.

Small Business Regulatory Enforcement Fairness Act of 1996

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

Executive Order 12988: Civil Justice Reform

This rule meets the applicable standards set forth in section 3(a) and (b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

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

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Department of Homeland Security has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any reporting requirements inherent in a final rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects

8 CFR Part 1

Administrative practice and procedure, Immigration.

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Immigration, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 239

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 287

Administrative practice and procedure, Aliens, Immigration,

Reporting and recordkeeping requirements.

■ Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

Chapter I—Department of Homeland Security (Immigration and Naturalization)

■ 1. The chapter heading is revised to read as set forth above.

PART 1—DEFINITIONS

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

Authority: 8 U.S.C. 1101, 1103; 5 U.S.C. 301; Pub. L. 107–296, 116 Stat. 2135 (6 U.S.C. 1, *et seq.*).

■ 3–4. Section 1.1 is amended by revising paragraphs (c), (d), (o) and (p) and adding paragraphs (u) through (z) to read as follows:

§ 1.1 Definitions.

* * * * *

(c) The term *Service* means the Immigration and Naturalization Service, as it existed prior to March 1, 2003. Unless otherwise specified, references to the Service after that date mean the Bureau of Citizenship and Immigration Services, the Bureau of Customs and Border Protection, and the Bureau of Immigration and Customs Enforcement.

(d) The term *Commissioner* means the Commissioner of the Immigration and Naturalization Service prior to March 1, 2003. Unless otherwise specified, references after that date mean the Director of the Bureau of Citizenship and Immigration Services, the Commissioner of the Bureau of Customs and Border Protection, and the Assistant Secretary for the Bureau of Immigration and Customs Enforcement.

* * * * *

(o) The terms *director* or *district director* prior to March 1, 2003, mean the district director or regional service center director, unless otherwise specified. On or after March 1, 2003, pursuant to delegation from the Secretary of Homeland Security or any successive re-delegation, the terms mean, to the extent that authority has been delegated to such official: service center director; special agent in charge; field office director; district director for services; district director for interior enforcement; or director, field operations. The terms also mean such other official, including an official in an acting capacity, within the Bureau of Citizenship and Immigration Services, the Bureau of Customs and Border Protection, the Bureau of Immigration and Customs Enforcement, or other component of the Department of Homeland Security who is delegated the function or authority above referenced for a particular geographic district, region, or area.

(p) The term *lawfully admitted for permanent residence* means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed. Such status terminates upon entry of a final administrative order of exclusion, deportation, or removal.

* * * * *

(u) The term *Department,* unless otherwise noted, means the Department of Homeland Security.

(v) The term *Secretary,* unless otherwise noted, means the Secretary of Homeland Security.

(w) The term *Bureau* means generally, unless otherwise noted, the Bureau of Citizenship and Immigration Services, the Bureau of Customs and Border Protection, and the Bureau of Immigration and Customs Enforcement, as created by the Homeland Security Act of 2002, as amended, Pub. L. 107–296, November 25, 2002, 116 Stat. 2135, and the President's Reorganization Plan, as modified.

(x) The term *BCIS* means the Bureau of Citizenship and Immigration Services.

(y) The term *CBP* means the Bureau of Customs and Border Protection.

(z) The term *ICE* means the Bureau of Immigration and Customs Enforcement.

PART 103—POWERS AND DUTIES; AVAILABILITY OF RECORDS

■ 5. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 8 U.S.C. 1101, 1103, 1304, 1356; 31 U.S.C. 9701; Pub. L. 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*); E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

■ 6. Section 103.1(b) is revised to read as follows:

§ 103.1 Delegations of authority; designation of immigration officers.

* * * * *

(b) *Immigration Officer.* The following employees of the Department of Homeland Security, including senior or supervisory officers of such employees, are designated as immigration officers authorized to exercise the powers and duties of such officer as specified by the Act and this chapter I: Immigration officer, immigration inspector, immigration examiner, adjudications officer, Border Patrol agent, aircraft pilot, airplane pilot, helicopter pilot, deportation officer, detention enforcement officer, detention officer, investigator, special agent, investigative assistant, immigration enforcement agent, intelligence officer, intelligence agent, general attorney (except with respect to CBP, only to the extent that the attorney is performing any immigration function), applications adjudicator, contact representative, legalization adjudicator, legalization officer, legalization assistant, forensic document analyst, fingerprint specialist, immigration information officer, immigration agent (investigations), asylum officer, other officer or employee of the Department of Homeland Security or of the United States as designated by the Secretary of Homeland Security as provided in § 2.1 of this chapter.

PART 239—INITIATION OF REMOVAL PROCEEDINGS

■ 7. The authority citation for part 239 continues to read as follows:

Authority: 8 U.S.C. 1103, 1221, 1229; Homeland Security Act of 2002, Pub. L. 107–296 (6 U.S.C. 1, *et seq.*); 8 CFR part 2.

■ 8. Section 239.1 is revised to read as follows:

§ 239.1 Notice to appear.

(a) *Issuance of notice to appear.* Any immigration officer, or supervisor thereof, performing an inspection of an arriving alien at a port-of-entry may issue a notice to appear to such alien. In addition, the following officers, or officers acting in such capacity, may issue a notice to appear:

(1) District directors (except foreign);
(2) Deputy district directors (except foreign);
(3) Chief patrol agents;
(4) Deputy chief patrol agents;
(5) Assistant chief patrol agents;
(6) Patrol agents in charge;
(7) Assistant patrol agents in charge;
(8) Field operations supervisors;
(9) Special operations supervisors;
(10) Supervisory border patrol agents;
(11) Service center directors;
(12) Deputy service center directors;
(13) Assistant service center directors for examinations;
(14) Supervisory district adjudications officers;
(15) Supervisory asylum officers;
(16) Officers in charge (except foreign);
(17) Assistant officers in charge (except foreign);
(18) Special agents in charge;
(19) Deputy special agents in charge;
(20) Associate special agents in charge;
(21) Assistant special agents in charge;
(22) Resident agents in charge;
(23) Supervisory special agents;

(24) Directors of investigations;
(25) District directors for interior enforcement;
(26) Deputy or assistant district directors for interior enforcement;
(27) Director of detention and removal;
(28) Field office directors;
(29) Deputy field office directors;
(30) Supervisory deportation officers;
(31) Supervisory detention and deportation officers;
(32) Directors or officers in charge of detention facilities;
(33) Directors of field operations;
(34) Deputy or assistant directors of field operations;
(35) District field officers;
(36) Port directors;
(37) Deputy port directors; or
(38) Other officers of employees of the Department or of the United States who are delegated the authority as provided by § 2.1 of this chapter to issue notices to appear.

(b) *Service of notice to appear.* Service of the notice to appear shall be in accordance with section 239 of the Act.

■ 9. Section 239.2 is amended by:
■ a. Revising paragraphs (c) and (d); and by
■ b. Removing paragraph (f).

The revisions read as follows:

§ 239.2 Cancellation of notice to appear.

* * * * *

(c) *Motion to dismiss.* After commencement of proceedings pursuant to 8 CFR 1003.14, ICE counsel, or any officer enumerated in paragraph (a) of this section, may move for dismissal of the matter on the grounds set out under paragraph (a) of this section.

(d) *Motion for remand.* After commencement of the hearing, ICE counsel, or any officer enumerated in paragraph (a) of this section may move for remand of the matter to district jurisdiction on the ground that the foreign relations of the United States are involved and require further consideration.

* * * * *

PART 287—FIELD OFFICERS; POWERS AND DUTIES

■ 10. The authority citation for part 287 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1225, 1226, 1251, 1252, 1357; Homeland Security Act of 2002, Pub. L. 107–296 (6 U.S.C. 1, *et seq.*); 8 CFR part 2.

■ 11. Section 287.1 is amended by:
■ a. Revising the words ''district director'' to read ''chief patrol agent for CBP, or the special agent in charge for ICE'' in paragraph (a)(2);
■ b. Revising paragraphs (b) and (g);
■ c. Removing the words ''and § 242.2(a) of this part'' in paragraph (e); and by
■ d. Adding paragraphs (h) and (i).

The revisions and additions read as follows:

§ 287.1 Definitions.

* * * * *

(b) *Reasonable distance; fixing by chief patrol agents and special agents in charge.* In fixing distances not exceeding 100 air miles pursuant to paragraph (a) of this section, chief patrol agents and special agents in charge shall take into consideration topography, confluence of arteries of transportation leading from external boundaries, density of population, possible inconvenience to the traveling public, types of conveyances used, and reliable information as to movements of persons effecting illegal entry into the United States: *Provided,* That whenever in the opinion of a chief patrol agent or special agent in charge a distance in his or her sector or district of more than 100 air miles from any external boundary of the United States would because of unusual circumstances be reasonable, such chief patrol agent or special agent in charge shall forward a complete report with respect to the matter to the Commissioner of CBP, or the Assistant Secretary for ICE, as appropriate, who may, if he determines that such action is justified, declare such distance to be reasonable.

* * * * *

(g) *Basic immigration law enforcement training.* The phrase basic immigration law enforcement training, as used in §§ 287.5 and 287.8, means the successful completion of one of the following courses of training provided at the Immigration Officer Academy or Border Patrol Academy: Immigration Officer Basic Training Course after 1971; Border Patrol Basic Training Course after 1950; Immigration Detention Enforcement Officer Basic Training Course after 1977; and Immigration Customs Enforcement Special Agent Training, after 2002; or training substantially equivalent thereto as determined by the Commissioner of CBP or the Assistant Secretary for ICE with respect to personnel in their respective bureaus. The phrase basic immigration law enforcement training also means the successful completion of the Other than Permanent Full-Time (OTP) Immigration Inspector Basic Training Course after 1991 in the case of individuals who are OTP immigration inspectors. Conversion by OTP immigration to any other status requires training applicable to that position.

(h) References to specific titles of officers mean all individuals holding such positions and any individual acting in such position.

(i) Nothing in this part limits the authority of any DHS officers to act pursuant to any authorities that they may otherwise possess.

§ 287.2 [Amended]

■ 12. Section 287.2 is amended by:
■ a. Revising the words ''district director'' to read ''special agent in charge, port director,'';
■ b. Adding the phrase ''immigration and nationality'' immediately before the phrase ''laws administered or enforced''; and by
■ c. Revising the word ''Service'' to read ''Department''.

§ 287.3 [Amended]

■ 13. Section 287.3 is amended by:
■ a. Revising the words ''8 CFR part 3'' to read ''8 CFR part 1003'' in paragraph (c); and by
■ b. Adding the phrase ''or 8 CFR 1292.2'' immediately after the phrase ''§ 292.2 of this chapter'' in paragraph (c).
■ 14. Section 287.4 is amended by:
■ a. Revising paragraph (a);
■ b. Adding the word ''immigration'' immediately before the word ''officer'' and by revising the word ''Service'' to read ''Department'' in paragraph (b)(1);
■ c. Revising the word ''making'' to read ''taking'', adding the word ''immigration'' immediately before the word ''officer'' and by revising the word ''Service'' to read ''Department'' in paragraph (b)(2); and by
■ d. Revising paragraph (c).

The revisions read as follows:

§ 287.4 Subpoena.

(a) *Who may issue*—(1) *Criminal or civil investigations.* All District Directors; Deputy District Directors; Chief Patrol Agents; Deputy Chief Patrol Agents; Assistant Chief Patrol Agents; Officers in Charge; Patrol Agents in Charge; Assistant Patrol Agents in Charge; Field Operations Supervisors; Special Operations Supervisors; Supervisory Border Patrol Agents; Assistant District Directors, Investigations; Supervisory Criminal Investigators, Anti-Smuggling; Regional Directors; Service Center Directors; Assistant District Directors, Examinations; Director, Detention and Removal; Special Agents in Charge; all Special Agents in supervisory positions; Field Office Directors; Deputy Field Office Directors; and any other immigration officer who has been expressly delegated such authority as provided by 8 CFR 2.1 may issue a subpoena requiring the production of

records and evidence for use in criminal or civil investigations.

(2) *Proceedings other than naturalization proceedings*—(i) *Prior to commencement of proceedings.* All District Directors; Deputy District Directors; Chief Patrol Agents; Deputy Chief Patrol Agents; Officers in Charge; Director, Detention and Removal; Special Agents in Charge; Deputy Special Agents in Charge; Resident Agents in Charge; District Field Officers; Field Office Directors; Deputy Field Office Directors; and Port Directors may issue a subpoena requiring the attendance of witnesses or the production of documentary evidence, or both, for use in any proceeding under this chapter I, other than under 8 CFR part 335, or any application made ancillary to the proceeding.

(ii) *Subsequent to commencement of any immigration court proceeding.* Procedures for the issuance of a subpoena after the commencement of proceedings, in cases other than those arising under part 335 of this chapter, are set forth at 8 CFR 1003.35(b) and 1287.4.

* * * * *

(c) *Service.* A subpoena issued under this section may be served by any person, over 18 years of age not a party to the case, designated to make such service by the District Director; Deputy District Director; Chief Patrol Agent; Deputy Chief Patrol Agent; Assistant Chief Patrol Agent; Patrol Agent in Charge; Officer in Charge; Assistant District Director, Investigations; Supervisory Criminal Investigator, Anti-Smuggling; Regional Director; Special Agent in Charge; Deputy Special Agent in Charge; Resident Agent in Charge; District Field Officer; Field Office Director; Deputy Field Office Director; Supervisory Deportation Officer; Supervisory Detention and Deportation Officer; and Port Director having administrative jurisdiction over the office in which the subpoena is issued. The Director, Detention and Removal, shall also have the authority to make such designation. Service of the subpoena shall be made by delivering a copy thereof to the person named therein and by tendering to him/her the fee for one day's attendance and the mileage allowed by law by the United States District Court for the district in which the testimony is to be taken. When the subpoena is issued on behalf of the Department, fee and mileage need not be tendered at the time of service. A record of such service shall be made and attached to the original copy of the subpoena.

* * * * *

■ 15. Section 287.5 is revised to read as follows:

§ 287.5 Exercise of power by immigration officers.

(a) *Power and authority to interrogate and administer oaths.* Any immigration officer as defined in 8 CFR 103.1(b) is hereby authorized and designated to exercise anywhere in or outside the United States the power conferred by:

(1) Section 287(a)(1) of the Act to interrogate, without warrant, any alien or person believed to be an alien concerning his or her right to be, or to remain, in the United States, and

(2) Section 287(b) of the Act to administer oaths and to take and consider evidence concerning the privilege of any person to enter, reenter, pass through, or reside in the United States; or concerning any matter which is material or relevant to the enforcement of the Act and the administration of the immigration and naturalization functions of the Department.

(b) *Power and authority to patrol the border.* The following immigration officers who have successfully completed basic immigration law enforcement training are hereby authorized and designated to exercise the power to patrol the border conferred by section 287(a)(3) of the Act:

(1) Border patrol agents, including aircraft pilots;

(2) Special agents;

(3) Immigration inspectors (seaport operations only);

(4) Adjudications officers and deportation officers when in the uniform of an immigration inspector and performing inspections or supervising other immigration inspectors performing inspections (seaport operations only);

(5) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(6) Immigration officers who need the authority to patrol the border under section 287(a)(3) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP, or the Assistant Secretary for ICE.

(c) *Power and authority to arrest*—(1) Arrests of aliens under section 287(a)(2) of the Act for immigration violations. The following immigration officers who have successfully completed basic immigration law enforcement training are hereby authorized and designated to exercise the arrest power conferred by section 287(a)(2) of the Act and in accordance with 8 CFR 287.8(c):

(i) Border patrol agents, including aircraft pilots;

(ii) Special agents;

(iii) Deportation officers;

(iv) Immigration inspectors;

(v) Adjudications officers;

(vi) Immigration enforcement agents;

(vii) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(viii) Immigration officers who need the authority to arrest aliens under section 287(a)(2) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP, the Assistant Secretary for ICE, or the Director of the BCIS.

(2) Arrests of persons under section 287(a)(4) of the Act for felonies regulating the admission or removal of aliens. The following immigration officers who have successfully completed basic immigration law enforcement training are hereby authorized and designated to exercise the arrest power conferred by section 287(a)(4) of the Act and in accordance with 8 CFR 287.8(c):

(i) Border patrol agents, including aircraft pilots;

(ii) Special agents;

(iii) Deportation officers;

(iv) Immigration inspectors;

(v) Adjudications officers;

(vi) Immigration enforcement agents;

(vii) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(viii) Immigration officers who need the authority to arrest persons under section 287(a)(4) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP, the Assistant Secretary for ICE, or the Director of the BCIS.

(3) Arrests of persons under section 287(a)(5)(A) of the Act for any offense against the United States. The following immigration officers who have successfully completed basic immigration law enforcement training are hereby authorized and designated to exercise the arrest power conferred by section 287(a)(5)(A) of the Act and in accordance with 8 CFR 287.8(c):

(i) Border patrol agents, including aircraft pilots;

(ii) Special agents;

(iii) Deportation officers;

(iv) Immigration inspectors (permanent full-time immigration inspectors only);

(v) Adjudications officers when in the uniform of an immigration inspector

and performing inspections or supervising other immigration inspectors performing inspections;

(vi) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(vii) Immigration officers who need the authority to arrest persons under section 287(a)(5)(A) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP, or the Assistant Secretary for ICE.

(4) Arrests of persons under section 287(a)(5)(B) of the Act for any felony. (i) Section 287(a)(5)(B) of the Act authorizes designated immigration officers, as listed in paragraph (c)(4)(iii) of this section, to arrest persons, without warrant, for any felony cognizable under the laws of the United States if:

(A) The immigration officer has reasonable grounds to believe that the person to be arrested has committed or is committing such a felony;

(B) The immigration officer is performing duties relating to the enforcement of the immigration laws at the time of the arrest;

(C) There is a likelihood of the person escaping before a warrant can be obtained for his or her arrest; and

(D) The immigration officer has been certified as successfully completing a training program that covers such arrests and the standards with respect to the immigration enforcement activities of the Department as defined in 8 CFR 287.8.

(ii) The following immigration officers who have successfully completed basic immigration law enforcement training are hereby authorized and designated to exercise the arrest power conferred by section 287(a)(5)(B) of the Act and in accordance with 8 CFR 287.8(c):

(A) Border patrol agents, including aircraft pilots;

(B) Special agents;

(C) Deportation officers;

(D) Immigration inspectors (permanent full-time immigration inspectors only);

(E) Adjudications officers when in the uniform of an immigration inspector and performing inspections or supervising other immigration inspectors performing inspections;

(F) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(G) Immigration officers who need the authority to arrest persons under section 287(a)(5)(B) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary for ICE.

(iii) Notwithstanding the authorization and designation set forth in paragraph (c)(4)(ii) of this section, no immigration officer is authorized to make an arrest for any felony under the authority of section 287(a)(5)(B) of the Act until such time as he or she has been certified by the Director of Training as successfully completing a training course encompassing such arrests and the standards for enforcement activities as defined in 8 CFR 287.8. Such certification shall be valid for the duration of the immigration officer's continuous employment, unless it is suspended or revoked by the Commissioner of CBP or the Assistant Secretary for ICE, or their respective designees, for just cause.

(5) Arrests of persons under section 274(a) of the Act who bring in, transport, or harbor certain aliens, or induce them to enter.

(i) Section 274(a) of the Act authorizes designated immigration officers, as listed in paragraph (c)(5)(ii) of this section, to arrest persons who bring in, transport, or harbor aliens, or induce them to enter the United States in violation of law. When making an arrest, the designated immigration officer shall adhere to the provisions of the enforcement standard governing the conduct of arrests in 8 CFR 287.8(c).

(ii) The following immigration officers who have successfully completed basic immigration law enforcement training are authorized and designated to exercise the arrest power conferred by section 274(a) of the Act:

(A) Border patrol agents, including aircraft pilots;

(B) Special agents;

(C) Deportation officers;

(D) Immigration inspectors;

(E) Adjudications officers when in the uniform of an immigration inspector and performing inspections or supervising other immigration inspectors performing inspections;

(F) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(G) Immigration officers who need the authority to arrest persons under section 274(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary for ICE.

(6) Custody and transportation of previously arrested persons. In addition to the authority to arrest pursuant to a warrant of arrest in paragraph (e)(3)(iv) of this section, detention enforcement officers and immigration enforcement agents who have successfully completed basic immigration law enforcement training are hereby authorized and designated to take and maintain custody of and transport any person who has been arrested by an immigration officer pursuant to paragraphs (c)(1) through (c)(5) of this section.

(d) *Power and authority to conduct searches.* The following immigration officers who have successfully completed basic immigration law enforcement training are hereby authorized and designated to exercise the power to conduct searches conferred by section 287(c) of the Act:

(1) Border patrol agents, including aircraft pilots;

(2) Special agents;

(3) Deportation officers;

(4) Immigration inspectors;

(5) Adjudications officers;

(6) Immigration enforcement agents;

(7) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(8) Immigration officers who need the authority to conduct searches under section 287(c) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP, the Assistant Secretary for ICE, or the Director of the BCIS.

(e) *Power and authority to execute warrants*—(1) *Search warrants.* The following immigration officers who have successfully completed basic immigration law enforcement training are hereby authorized and designated to exercise the power conferred by section 287(a) of the Act to execute a search warrant:

(i) Border patrol agents, including aircraft pilots;

(ii) Special agents;

(iii) Deportation officers;

(iv) Immigration enforcement agents;

(v) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph, and

(vi) Immigration officers who need the authority to execute search warrants under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary for ICE.

(2) *Issuance of arrest warrants for immigration violations.* A warrant of arrest may be issued by an immigration officer who has been authorized or delegated such authority:

(i) District directors (except foreign);
(ii) Deputy district directors (except foreign);
(iii) Assistant district directors for investigations;
(iv) Deputy assistant district directors for investigations;
(v) Assistant district directors for deportation;
(vi) Deputy assistant district directors for deportation;
(vii) Assistant district directors for examinations;
(viii) Deputy assistant district directors for examinations;
(ix) Officers in charge (except foreign);
(x) Assistant officers in charge (except foreign);
(xi) Chief patrol agents;
(xii) Deputy chief patrol agents;
(xiii) Assistant chief patrol agents;
(xiv) Patrol agents in charge;
(xv) Assistant patrol agents in charge;
(xvi) Field operations supervisors;
(xvii) Special operations supervisors;
(xviii) Supervisory border patrol agents;
(xix) The Assistant Commissioner, Investigations;
(xx) Institutional Hearing Program directors;
(xxi) Area port directors;
(xxii) Port directors;
(xxiii) Deputy port directors;
(xxiv) Supervisory deportation officers;
(xxv) Supervisory detention and deportation officers;
(xxvi) Director, Office of Detention and Removal;
(xxvii) Special Agents in Charge;
(xxviii) Deputy Special Agents in Charge;
(xxix) Associate Special Agents in Charge;
(xxx) Assistant Special Agents in Charge;
(xxxi) Resident Agents in Charge;
(xxxii) Field Office Directors;
(xxxiii) Deputy Field Office Directors; or
(xxxiv) District Field Officers.

(3) *Service of warrant of arrests for immigration violations.* The following immigration officers who have successfully completed basic immigration law enforcement training are hereby authorized and designated to exercise the power pursuant to section 287(a) of the Act to execute warrants of arrest for administrative immigration violations issued under section 236 of the Act or to execute warrants of criminal arrest issued under the authority of the United States:
(i) Border patrol agents, including aircraft pilots;
(ii) Special agents;
(iii) Deportation officers;
(iv) Detention enforcement officers or immigration enforcement agents (warrants of arrest for administrative immigration violations only);
(v) Immigration inspectors;
(vi) Adjudications officers when in the uniform of an immigration inspector and performing inspections or supervising other immigration inspectors performing inspections;
(vii) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and
(viii) Immigration officers who need the authority to execute arrest warrants for immigration violations under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary for ICE.

(4) *Service of warrant of arrests for non-immigration violations.* The following immigration officers who have successfully completed basic immigration law enforcement training are hereby authorized and designated to exercise the power to execute warrants of criminal arrest for non-immigration violations issued under the authority of the United States:
(i) Border patrol agents, including aircraft pilots;
(ii) Special agents;
(iii) Deportation officers;
(iv) Immigration enforcement agents;
(v) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and
(vi) Immigration officers who need the authority to execute warrants of arrest for non-immigration violations under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary for ICE.

(f) *Power and authority to carry firearms.* The following immigration officers who have successfully completed basic immigration enforcement training are hereby authorized and designated to exercise the power conferred by section 287(a) of the Act to carry firearms provided that they are individually qualified by training and experience to handle and safely operate the firearms they are permitted to carry, maintain proficiency in the use of such firearms, and adhere to the provisions of the enforcement standard governing the use of force in 8 CFR 287.8(a):
(1) Border patrol agents, including aircraft pilots;
(2) Special agents;
(3) Deportation officers;
(4) Detention enforcement officers or immigration enforcement agents;
(5) Immigration inspectors;
(6) Adjudications officers when in the uniform of an immigration inspector and performing inspections or supervising other immigration inspectors performing inspections;
(7) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and
(8) Immigration officers who need the authority to carry firearms under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary for ICE.

■ 16. Section 287.7 is revised to read as follows:

§ 287.7 Detainer provisions under section 287(d)(3) of the Act.

(a) *Detainers in general.* Detainers are issued pursuant to sections 236 and 287 of the Act and this chapter 1. Any authorized immigration officer may at any time issue a Form I–247, Immigration Detainer-Notice of Action, to any other Federal, State, or local law enforcement agency. A detainer serves to advise another law enforcement agency that the Department seeks custody of an alien presently in the custody of that agency, for the purpose of arresting and removing the alien. The detainer is a request that such agency advise the Department, prior to release of the alien, in order for the Department to arrange to assume custody, in situations when gaining immediate physical custody is either impracticable or impossible.

(b) *Authority to issue detainers.* The following officers are authorized to issue detainers:
(1) Border patrol agents, including aircraft pilots;
(2) Special agents;
(3) Deportation officers;
(4) Immigration inspectors;
(5) Adjudications officers;
(6) Immigration enforcement agents;
(7) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and
(8) Immigration officers who need the authority to issue detainers under section 287(d)(3) of the Act in order to effectively accomplish their individual missions and who are designated individually or as a class, by the Commissioner of CBP, the Assistant Secretary for ICE, or the Director of the BCIS.

(c) *Availability of records.* In order for the Department to accurately determine

the propriety of issuing a detainer, serving a notice to appear, or taking custody of an alien in accordance with this section, the criminal justice agency requesting such action or informing the Department of a conviction or act that renders an alien inadmissible or removable under any provision of law shall provide the Department with all documentary records and information available from the agency that reasonably relates to the alien's status in the United States, or that may have an impact on conditions of release.

(d) *Temporary detention at Department request.* Upon a determination by the Department to issue a detainer for an alien not otherwise detained by a criminal justice agency, such agency shall maintain custody of the alien for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit assumption of custody by the Department.

(e) *Financial responsibility for detention.* No detainer issued as a result of a determination made under this chapter I shall incur any fiscal obligation on the part of the Department, until actual assumption of custody by the Department, except as provided in paragraph (d) of this section.

17. Section 287.8 is revised to read as follows:

§ 287.8 Standards for enforcement activities.

The following standards for enforcement activities contained in this section must be adhered to by every immigration officer involved in enforcement activities. Any violation of this section shall be reported to the Office of the Inspector General or such other entity as may be provided for in 8 CFR 287.10.

(a) *Use of force*—(1) *Non-deadly force.* (i) Non-deadly force is any use of force other than that which is considered deadly force as defined in paragraph (a)(2) of this section.

(ii) Non-deadly force may be used only when a designated immigration officer, as listed in paragraph (a)(1)(iv) of this section, has reasonable grounds to believe that such force is necessary.

(iii) A designated immigration officer shall always use the minimum non-deadly force necessary to accomplish the officer's mission and shall escalate to a higher level of non-deadly force only when such higher level of force is warranted by the actions, apparent intentions, and apparent capabilities of the suspect, prisoner, or assailant.

(iv) The following immigration officers who have successfully completed basic immigration law enforcement training are hereby authorized and designated to exercise the power conferred by section 287(a) of the Act to use non-deadly force should circumstances warrant it:

(A) Border patrol agents, including aircraft pilots;

(B) Special agents;

(C) Deportation officers;

(D) Detention enforcement officers or immigration enforcement agents;

(E) Immigration inspectors;

(F) Adjudications officers when in the uniform of an immigration inspector and performing inspections or supervising other immigration inspectors performing inspections;

(G) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(H) Immigration officers who need the authority to use non-deadly force under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary for ICE.

(2) *Deadly force.* (i) Deadly force is any use of force that is likely to cause death or serious physical injury.

(ii) Deadly force may be used only when a designated immigration officer, as listed in paragraph (a)(2)(iii) of this section, has reasonable grounds to believe that such force is necessary to protect the designated immigration officer or other persons from the imminent danger of death or serious physical injury.

(iii) The following immigration officers who have successfully completed basic immigration law enforcement training are hereby authorized and designated to exercise the power conferred by section 287(a) of the Act to use deadly force should circumstances warrant it:

(A) Border patrol agents, including aircraft pilots;

(B) Special agents;

(C) Deportation officers;

(D) Detention enforcement officers or immigration enforcement agents;

(E) Immigration inspectors;

(F) Adjudications officers when in the uniform of an immigration inspector and performing inspections or supervising other immigration inspectors performing inspections;

(G) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed above; and

(H) Immigration officers who need the authority to use deadly force under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary for ICE.

(b) *Interrogation and detention not amounting to arrest.* (1) Interrogation is questioning designed to elicit specific information. An immigration officer, like any other person, has the right to ask questions of anyone as long as the immigration officer does not restrain the freedom of an individual, not under arrest, to walk away.

(2) If the immigration officer has a reasonable suspicion, based on specific articulable facts, that the person being questioned is, or is attempting to be, engaged in an offense against the United States or is an alien illegally in the United States, the immigration officer may briefly detain the person for questioning.

(3) Information obtained from this questioning may provide the basis for a subsequent arrest, which must be effected only by a designated immigration officer, as listed in 8 CFR 287.5(c). The conduct of arrests is specified in paragraph (c) of this section.

(c) *Conduct of arrests*—(1) *Authority.* Only designated immigration officers are authorized to make an arrest. The list of designated immigration officers varies depending on the type of arrest as listed in 8 CFR 287.5(c)(1) through (c)(5).

(2) *General procedures.* (i) An arrest shall be made only when the designated immigration officer has reason to believe that the person to be arrested has committed an offense against the United States or is an alien illegally in the United States.

(ii) A warrant of arrest shall be obtained except when the designated immigration officer has reason to believe that the person is likely to escape before a warrant can be obtained.

(iii) At the time of the arrest, the designated immigration officer shall, as soon as it is practical and safe to do so:

(A) Identify himself or herself as an immigration officer who is authorized to execute an arrest; and

(B) State that the person is under arrest and the reason for the arrest.

(iv) With respect to an alien arrested and administratively charged with being in the United States in violation of law, the arresting officer shall adhere to the procedures set forth in 8 CFR 287.3 if the arrest is made without a warrant.

(v) With respect to a person arrested and charged with a criminal violation of the laws of the United States, the arresting officer shall advise the person of the appropriate rights as required by

law at the time of the arrest, or as soon thereafter as practicable. It is the duty of the immigration officer to assure that the warnings are given in a language the subject understands, and that the subject acknowledges that the warnings are understood. The fact that a person has been advised of his or her rights shall be documented on appropriate Department forms and made a part of the arrest record.

(vi) Every person arrested and charged with a criminal violation of the laws of the United States shall be brought without unnecessary delay before a United States magistrate judge, a United States district judge or, if necessary, a judicial officer empowered in accordance with 18 U.S.C. 3041 to commit persons charged with such crimes. Accordingly, the immigration officer shall contact an Assistant United States Attorney to arrange for an initial appearance.

(vii) The use of threats, coercion, or physical abuse by the designated immigration officer to induce a suspect to waive his or her rights or to make a statement is prohibited.

(d) *Transportation*—(1) *Vehicle transportation.* All persons will be transported in a manner that ensures the safety of the persons being transported. When persons arrested or detained are being transported by vehicle, each person will be searched as thoroughly as circumstances permit before being placed in the vehicle. The person being transported shall not be handcuffed to the frame or any part of the moving vehicle or an object in the moving vehicle. The person being transported shall not be left unattended during transport unless the immigration officer needs to perform a law enforcement function.

(2) *Airline transportation.* Escorting officers must abide by all Federal Aviation Administration, Transportation Security Administration, and airline carrier rules and regulations pertaining to weapons and the transportation of prisoners.

(e) *Vehicular pursuit.* (1) A vehicular pursuit is an active attempt by a designated immigration officer, as listed in paragraph (e)(2) of this section, in a designated pursuit vehicle to apprehend fleeing suspects who are attempting to avoid apprehension. A designated pursuit vehicle is defined as a vehicle equipped with emergency lights and siren, placed in or on the vehicle, that emit audible and visual signals in order to warn others that emergency law enforcement activities are in progress.

(2) The following immigration officers who have successfully completed basic immigration law enforcement training are hereby authorized and designated to initiate a vehicular pursuit:

(i) Border patrol agents, including aircraft pilots;

(ii) Supervisory personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(iii) Immigration officers who need the authority to initiate a vehicular pursuit in order to effectively accomplish their individual mission and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary for ICE.

(f) *Site inspections.* (1) Site inspections are Border and Transportation Security Directorate enforcement activities undertaken to locate and identify aliens illegally in the United States, or aliens engaged in unauthorized employment, at locations where there is a reasonable suspicion, based on articulable facts, that such aliens are present.

(2) An immigration officer may not enter into the non-public areas of a business, a residence including the curtilage of such residence, or a farm or other outdoor agricultural operation, except as provided in section 287(a)(3) of the Act, for the purpose of questioning the occupants or employees concerning their right to be or remain in the United States unless the officer has either a warrant or the consent of the owner or other person in control of the site to be inspected. When consent to enter is given, the immigration officer must note on the officer's report that consent was given and, if possible, by whom consent was given. If the immigration officer is denied access to conduct a site inspection, a warrant may be obtained.

(3) Adequate records must be maintained noting the results of every site inspection, including those where no illegal aliens are located.

(4) Nothing in this section prohibits an immigration officer from entering into any area of a business or other activity to which the general public has access or onto open fields that are not farms or other outdoor agricultural operations without a warrant, consent, or any particularized suspicion in order to question any person whom the officer believes to be an alien concerning his or her right to be or remain in the United States.

(g) *Guidelines.* The criminal law enforcement authorities authorized under this part will be exercised in a manner consistent with all applicable guidelines and policies of the Department of Justice and the Department of Homeland Security.

■ 18. Section 287.9 is amended by:

■ a. Revising the word ''Commissioner'' to read ''Commissioner of CBP and the Assistant Secretary for ICE'' in paragraph (a); and by

■ b. Revising paragraph (b).

The revisions read as follows:

§ 287.9 Criminal search warrant and firearms policies.

* * * * *

(b) In using a firearm, an immigration officer shall adhere to the standard of conduct set forth in 8 CFR 287.8(a)(2). An immigration officer may carry only firearms (whether Department issued or personally owned) that have been approved pursuant to guidelines promulgated by the Commissioner of CBP or the Assistant Secretary for ICE. These officials shall promulgate guidelines with respect to:

(1) Investigative procedures to be followed after a shooting incident involving an officer;

(2) Loss or theft of an approved firearm;

(3) Maintenance of records with respect to the issuance of firearms and ammunition; and

(4) Procedures for the proper care, storage, and maintenance of firearms, ammunition, and related equipment.

■ 19. Section 287.10 is revised to read as follows:

§ 287.10 Expedited internal review process.

(a) *Violations of standards for enforcement activities.* Alleged violations of the standards for enforcement activities established in accordance with the provisions of § 287.8 shall be investigated expeditiously consistent with the policies and procedures of the Department of Homeland Security and pursuant to any guidelines issued by the Secretary.

(b) *Complaints.* Any persons wishing to lodge a complaint pertaining to violations of enforcement standards contained in § 287.8 may contact the Department of Homeland Security, Office of the Inspector General, 245 Murray Drive—Building 410, Washington, DC, 20548, or telephone 1–800–323–8603. With respect to employees of the former INS, persons may contact the Office of Internal Audit, Bureau of Immigration and Customs Enforcement, 425 I Street NW., Washington, DC, 20536.

(c) *Expedited processing of complaints.* When an allegation or complaint of violation of § 287.8 is lodged against an employee or officer of the Department, the allegation or complaint shall be referred promptly for investigation in accordance with the

policies and procedures of the Department. At the conclusion of an investigation of an allegation or complaint of violation of § 287.8, the investigative report shall be referred promptly for appropriate action in accordance with the policies and procedures of the Department.

(d) *Unsubstantiated complaints.* When an investigative report does not support the allegation, the employee or officer against whom the allegation was made shall be informed in writing that the matter has been closed as soon as practicable. No reference to the allegation shall be filed in the official's or employee's official personnel file.

(e) *Jurisdiction of Department of Justice organizations.* Nothing in this section alters or limits, is intended to alter or limit, or shall be construed to alter or limit, the jurisdiction or authority conferred upon the Federal Bureau of Investigation, the United States Attorneys, the Criminal Division or the Civil Rights Division, or any other component of the Department of Justice that may have jurisdiction regarding criminal violations of law.

■ 20. Section 287.12 is revised to read as follows:

§ 287.12 Scope.

With regard to this part, these regulations provide internal guidance on specific areas of law enforcement authority. These regulations do not, are not intended to, and shall not be construed to exclude, supplant, or limit otherwise lawful activities of the Department or the Secretary. These regulations do not, are not intended to, shall not be construed to, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter, civil or criminal. The Secretary shall have exclusive authority to enforce these regulations through such administrative and other means as he may deem appropriate.

Dated: June 6, 2003.

Tom Ridge,

Secretary of Homeland Security.

[FR Doc. 03–14931 Filed 6–10–03; 3:25 pm]

BILLING CODE 4410–10–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 113

[Docket No. 01–091–2]

Viruses, Serums, Toxins, and Analogous Products; Standard Requirements for Determination of Residual Free Formaldehyde Content of Biological Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the Virus-Serum-Toxin Act regulations for the determination of residual free formaldehyde in veterinary biologics to specify that such determinations be made using the ferric chloride method, and that the residual free formaldehyde content be measured in grams per liter. The ferric chloride method has been adopted as an international standard by scientific experts and regulatory authorities in the United States, Canada, Japan, and the European Union. The effect of this rule will be to reduce the differences in technical requirements for veterinary biologics among regulatory agencies in different countries and further ensure the safety and shelf life of veterinary biologics by adopting a method that has been standardized and accepted internationally.

EFFECTIVE DATE: July 14, 2003.

FOR FURTHER INFORMATION CONTACT: Dr. Albert P. Morgan, Chief Staff Officer, Operational Support Section, Center for Veterinary Biologics, Licensing and Policy Development, VS, APHIS, 4700 River Road Unit 148, Riverdale, MD, 20737–1231; (301) 734–8245.

SUPPLEMENTARY INFORMATION:

Background

The Virus-Serum-Toxin Act regulations in 9 CFR part 113 (referred to below as the regulations) prescribe standard requirements for the preparation and testing of veterinary biological products. Standard requirements consist of test methods, procedures, and criteria that define the standards for purity, safety, potency, and efficacy for a given type of veterinary biological product. When a standard procedure for testing veterinary biological products is validated and approved by the Animal and Plant Health Inspection Service (APHIS) for general use, it is proposed for codification in the regulations. Sections 113.100 and 113.200 of the regulations prescribe the requirement for determination of residual free formaldehyde content in inactivated bacterial products and killed virus vaccines, respectively.

On April 5, 2002, we published in the **Federal Register** (67 FR 16327–16329, Docket No. 01–091–1) a proposal to amend to amend the regulations for determination of residual free formaldehyde content in inactivated bacterial products and killed virus vaccines to specify that such determinations be made using the ferric chloride method, and that the residual free formaldehyde content be measured in grams per liter. The proposed rule was intended to reduce the differences in technical requirements for veterinary biologics among regulatory agencies in different countries and further ensure the safety and shelf life of veterinary biologics by adopting a method which has been standardized and accepted internationally.

We solicited comments concerning our proposal for 60 days ending on June 4, 2002. We received one comment by that date, from a national trade association representing veterinary biologics manufacturers. The commenter expressed support for the efforts of APHIS and the International Cooperation on Harmonization of Technical Requirements for the Registration of Veterinary Medicinal Products (VICH) to harmonize the technical requirements for product registration among the participating regions and recommended that APHIS adopt the provisions of the proposed rule.

Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

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 Virus-Serum-Toxin Act regulations for determination of residual free formaldehyde content in biological products to require that such free formaldehyde determinations be made using the ferric chloride method, which determines residual free formaldehyde content by measuring the quantity of coloring matter in solution by the quantity of light absorbed in passing through the solution. In addition, this rule provides that the maximum allowable residual free formaldehyde content of veterinary

biologics be measured in grams per liter, rather than equivalent percent or parts per million. The effect of this action will be to provide a standardized method that has been shown to be more accurate than the basic fuchsin method and that has been standardized and adopted internationally.

This rule will affect all licensed manufacturers of veterinary biologics that test inactivated bacterial products and killed virus vaccines for free formaldehyde content. Currently, there are approximately 135 veterinary biologics establishments, including permittees. According to the standards of the Small Business Administration, most veterinary biologics establishments would be classified as small entities.

We do not expect that this rule will impose any additional testing or economic burden on these manufacturers because manufacturers currently test their products for free formaldehyde content using the basic fuchsin and other methods, and the reagents and equipment necessary to perform the ferric chloride test for free formaldehyde content that will be required under this rule are expected to be comparable in cost.

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. It is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. The Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 113

Animal biologics, Exports, Imports, Reporting and recordkeeping requirements.

■ Accordingly, we are amending 9 CFR part 113 as follows:

PART 113—STANDARD REQUIREMENTS

■ 1. The authority citation for part 113 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.4.

■ 2. In § 113.100, paragraph (f) is revised to read as follows:

§ 113.100 General requirements for inactivated bacterial products.

* * * * *

(f) If formaldehyde is used as the inactivating agent, and the serial has not been found satisfactory by the viricidal activity test, bulk or final container samples of completed product from each serial must be tested for residual free formaldehyde content using the ferric chloride test.[2] Firms currently using tests for residual free formaldehyde content other than the ferric chloride test have until July 14, 2004 to update their Outline of Production to be in compliance with this requirement.

(1) The residual free formaldehyde content of biological products containing clostridial antigens must not exceed 1.85 grams per liter (g/L).

(2) The residual free formaldehyde content of bacterins, bacterin-toxoids, and toxoids, other than those containing clostridial antigens, must not exceed 0.74 grams per liter (g/L).

■ 3. In § 113.200, paragraph (f) is revised to read as follows:

§ 113.200 General requirements for killed virus vaccines.

* * * * *

(f) *Formaldehyde content.* If formaldehyde is used as the killing agent, the residual free formaldehyde content must not exceed 0.74 grams per liter (g/L) as determined using the ferric chloride test.[3] Firms currently using tests for residual free formaldehyde content other than the ferric chloride test have until July 14, 2004 to update their Outline of Production to be in compliance with this requirement.

Done in Washington, DC, this 10th day of June 2003.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–14957 Filed 6–12–03; 8:45 am]

BILLING CODE 3410–34–P

[2] The procedures for performing the ferric chloride test for residual free formaldehyde may be obtained from USDA, APHIS, Center for Veterinary Biologics-Laboratory, 1800 Dayton Road, P.O. Box 844, Ames, IA 50010.

[3] The procedures for performing the ferric chloride test for residual free formaldehyde may be obtained from USDA, APHIS, Center for Veterinary Biologics-Laboratory, 1800 Dayton Road, P.O. Box 844, Ames, IA 50010.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 37

[Docket No. 03–11]

RIN 1557–AB75

Debt Cancellation Contracts and Debt Suspension Agreements; Change in Compliance Date and Request for Comment

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of delay in compliance date; request for comment.

SUMMARY: The Office of the Comptroller of the Currency (OCC) has determined to delay the date when compliance is required with certain provisions of the final rule governing debt cancellation contracts (DCCs) and debt suspension agreements (DSAs) in order to allow the OCC to consider issues that have recently been brought to our attention concerning the application of the DCC/DSA rule in the context of closed-end consumer loan transactions where DCCs and DSAs are offered through unaffiliated, non-exclusive agents. The delay of the compliance date applies only to the extent and to the types of transactions described in this document. In all other circumstances, national banks are required to comply with the DCC/DSA rule as of June 16, 2003, which is the date on which the rule takes effect. The OCC also is inviting comment on issues raised by national banks related to the sale of DCCs and DSAs in connection with closed-end consumer loans offered through such non-exclusive agency relationships.

DATES: *Compliance date:* The compliance date for certain provisions in 12 CFR part 37 published at 67 FR 58962 (September 19, 2002) is delayed indefinitely. *See* **SUPPLEMENTARY INFORMATION** for details. OCC will publish a document in the **Federal Register** announcing the compliance date.

Comment date: Comments must be received by July 14, 2003.

ADDRESSES: Comments should be directed to Office of the Comptroller of the Currency, Public Information Room, 250 E Street, SW., Mail Stop 1–5, Washington, DC 20219, Attention: Docket No. 03–11; Fax number (202) 874–4448 or Internet address: *regs.comments@occ.treas.gov.* Due to delays in paper mail delivery in the Washington area, commenters are encouraged to send comments by fax or e-mail when possible. Comments may be inspected and photocopied at the OCC's Public Reference Room, 250 E Street, SW., Washington, DC. You may make an appointment to inspect the comments by calling (202) 874–5043.

FOR FURTHER INFORMATION CONTACT: Jean Campbell, Attorney, Legislative and Regulatory Activities Division, (202) 874–5090; or Pamela Mount, Compliance Specialist, Compliance Division, (202) 874–4428, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Background

On September 19, 2002, the OCC published the final rule governing DCCs and DSAs.[1] The final rule establishes consumer protection standards and safety and soundness requirements that apply with respect to DCCs and DSAs entered into by national banks in connection with extensions of credit they make to customers. The rule prohibits national banks from engaging in certain practices, such as tying and misleading marketing or advertising. It also requires, among other things, that national banks provide standardized disclosures about the DCC and DSA products they offer; that they obtain a customer's acknowledgment of receipt of those disclosures; and that they obtain the customer's affirmative election to purchase the product. In addition, the rule requires a national bank that offers a customer the option to pay the fee for a DCC or DSA in a single payment also to offer that customer a *bona fide* option to pay the fee on a periodic basis (''periodic payment option''). The final rule takes effect on June 16, 2003.

The OCC recently has received information that the periodic payment option requirement may present unique issues, of which the OCC was previously unaware, in connection with DCCs and DSAs offered by national banks through unaffiliated, non-exclusive agents, with respect to certain types of consumer purchase transactions, most notably car loans made available through automobile dealers.

Accordingly, we have determined that it is appropriate to delay the mandatory compliance date for the periodic payment option in the case of transactions where unaffiliated, non-exclusive agents of a national bank offer that bank's DCC or DSA in connection with closed-end consumer credit, until the OCC has an opportunity to further evaluate the feasibility of approaches to providing appropriate customer protections in connection with that type of transaction. Because the availability of the periodic payment option also triggers certain disclosures, we also are delaying the time for compliance with certain other provisions in the DCC/DSA final rule that are linked to the requirement to offer a periodic payment option, including the requirement to provide the long form disclosures.

Banks offering DCCs and DSAs through non-affiliated, non-exclusive agents thus remain subject to the following requirements:

- The bank may not extend credit or alter the terms or conditions of an extension of credit conditioned upon the customer's purchase of a DCC or DSA.
- The bank may not engage in any practice or use any advertisement that could mislead or otherwise cause a reasonable person to reach an erroneous belief with respect to information that must be disclosed under this part.
- The bank may not offer DCCs or DSAs that contain terms giving the bank the right unilaterally to modify the contract unless the modification is favorable to the customer and is made without additional charge to the customer; or the customer is notified of any proposed change and is provided a reasonable opportunity to cancel the contract without penalty before the change goes into effect.
- If a DCC or DSA is terminated, the bank must refund to the customer any unearned fees paid for the contract unless the contract provides otherwise.
- The bank shall calculate the amount of a refund using a method at least as favorable to the customer as the actuarial method.
- If the bank offers the customer the option to finance the fee for a DCC or DSA, the bank must disclose to the customer whether and, if so, the time period during which, the customer may cancel the agreement and receive a refund.
- A national bank must provide to the customer at the time of the initial solicitation of the DCC or DSA, the short form disclosures described in Appendix A to part 37, as modified to reflect delay of the compliance date for providing the periodic payment option and related changes. The form of the short form disclosures must be readily understandable and meaningful. The short form disclosures also must be included in advertisements and other promotional material for DCCs and DSAs, unless they are of a general nature.
- Before entering into a contract, the bank must obtain a customer's written affirmative election to purchase the DCC or DSA. The written election must be conspicuous, simple, direct, readily understandable, and designed to call attention to its significance.
- A national bank must manage the risks associated with DCCs and DSAs in accordance with safe and sound banking principles.

Description of Provisions Affected

As a result of today's actions, compliance with the following provisions will not be required, until further notice, when a national bank, in connection with closed-end consumer credit[2] extended by that bank, offers a DCC or DSA through an unaffiliated, non-exclusive agent:

- The requirement to offer a periodic payment option set forth in 12 CFR 37.5.
- The requirement set forth in 12 CFR 37.4(a) that a bank that offers a customer a DCC or DSA without a refund provision also must offer that customer a *bona fide* option to purchase a comparable DCC or DSA that provides for a refund.
- The long-form disclosure requirement set forth in 12 CFR 37.6.
- The second disclosure set forth in Appendix A to part 37 (Short Form Disclosures), entitled ''Lump sum payment of fee,'' informing the customer that he or she has the option to pay the fee in a single lump sum or in periodic payments.
- The third disclosure set forth in Appendix A to part 37 (Short Form Disclosures), entitled ''Lump sum payment of fee with no refund,'' informing the customer that he or she has the option to purchase a DCC or DSA with a refund provision.
- The fifth disclosure set forth in Appendix A to part 37 (Short Form Disclosures), entitled ''Additional disclosures,'' indicating that the customer will receive additional

[1] 67 FR 58962. The rule is codified at 12 CFR part 37.

[2] As used in this notice, the term ''closed-end consumer credit'' and ''closed-end consumer loan'' refer to consumer credit other than open-end credit, as defined in the final DCC/DSA rule. These terms do not include loans secured by 1–4 residential real property. See 12 CFR 37.2(a).

information before being required to pay for the DCC or DSA.[3]

• The requirement to obtain a customer's written acknowledgment of receipt of disclosures set forth at 12 CFR 37.7(a).

The OCC expects that national banks that do not provide long forms disclosures will conspicuously inform customers that they will receive a copy of the contract before they are required to pay for the product.

Request for Comment

As we have indicated, the purpose of this delay in the time for compliance is to permit the OCC to consider how best to address compliance issues that arise under the circumstances described in this notice. To aid our review of these issues, we invite comment on the following specific questions, as well as on any other aspect of this notice that commenters wish to address:

1. Please comment on any compliance issues or problems posed by providing the periodic payment option and the associated short and long form disclosures for DCCs or DSAs sold by unaffiliated, non-exclusive agents in connection with closed-end loans.

2. Please explain the types of loan products, *e.g.*, car loans, where this issue arises.

3. What alternative approaches are available to provide appropriate consumer protections?

4. In the case of closed-end loans, should the requirement in the long form disclosures to disclose the total fee for a DCC paid on a monthly or periodic basis be modified? Is there an alternative, effective way to disclose that information that could be added to the rule?

Dated: June 10, 2003.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 03–14972 Filed 6–12–03; 8:45 am]

BILLING CODE 4810–33–P

[3] The sixth disclosure set forth in Appendix A to part 37, provides banks the option of directing customers either to the long form disclosures or the contract for a full explanation of the terms. Clearly, since the long form is not required for the time being, the bank will refer customers to the contract.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Final decision to waive the Nonmanufacturer Rule.

SUMMARY: This document advises the public that the U.S. Small Business Administration (SBA) is establishing a waiver of the Nonmanufacturer Rule for Overhead Fiber Optic Groundwire and Ancillary Hardware Components. The basis for waivers is that no small business manufacturers are supplying these classes of products to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses or awarded through the SBA 8(a) Program.

EFFECTIVE DATE: June 16, 2003.

Address Comments to: Edith Butler, Program Analyst, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416, Tel: (202) 619–0422.

FOR FURTHER INFORMATI0N CONTACT: Edith Butler, Program Analyst, (202) 619–0422, FAX (202) 205–7280.

SUPPLEMENTARY INFORMATION: Public Law 100–656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set aside for small businesses or SBA's 8(a) Program must provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406 (b). Section 303(h) of the law provides for waiver of this requirement by SBA for any ''class of products'' for which there are no small business manufacturers or processors in the Federal market.

To be considered available to participate in the Federal market on these classes of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on a six digit North American Industry Classification System (NAICS) and the four digit Product and Service Code established by the Federal Procurement Data System.

Linda G. Williams,

Associate Administrator for Government Contracting.

[FR Doc. 03–14297 Filed 6–12–03; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM253, Special Conditions No. 25–235–SC]

Special Conditions: Raytheon Aircraft Company HS 125 Series 700A and 700B Airplanes; High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments; Correction

SUMMARY: This document makes corrections to a Final special conditions; request for comment document published in the **Federal Register** on May 19, 2003 (68 FR 26991), which issued special conditions for the Raytheon Aircraft Company Model HS 125 Series 700A and 700B airplanes modified by Raytheon Aircraft Services, Inc., for protection from HIRF.

FOR FURTHER INFORMATION CONTACT: Jan Thor, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington, 98055–4056; telephone (425) 227–21271 facsimile (425) 227–1330; or e-mail: *jan.thor@faa.gov.*

Correction

In Final special conditions; request for comment document FR Doc. 03–12376, published on May 19, 2003 (68 FR 26991), make the following correction:

1. On page 26991, in the third column, under the **DATES** section of the subject Final special conditions; request for comments document, correct ''April 18, 2002'' to read ''April 18, 2003.''

Issued in Renton, Washington, on June 4, 2003.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–15000 Filed 6–12–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–05–AD; Amendment 39–13192; AD 2003–12–07]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT8D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), that is applicable to Pratt & Whitney JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR turbofan engines. That AD currently requires a determination of the utilization rate and protective coating type of the 7th, 8th, 9th, 10th, 11th, and 12th stage high pressure compressor (HPC) disks, and removal, inspection for corrosion, and recoating of those HPC disks based on utilization rate. This amendment requires removal and replacement of protective coating of 7th, 8th, 9th, 10th, 11th, and 12th stage HPC disks, initial and repetitive inspections for corrosion pits and cracks, and removal from service as required. This amendment is prompted by operator reports of cracks found on several JT8D steel HPC disks since the existing AD was published. The actions specified by this AD are intended to prevent fracture of the HPC disks, which can result in uncontained release of engine fragments, inflight engine shutdown, and airframe damage.

DATES: Effective July 18, 2003. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 18, 2003.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 98–12–07, Amendment 39–10563 (63 FR 31340, June 9, 1998), which is applicable to Pratt & Whitney JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR turbofan engines was published in the **Federal Register** on January 24, 2003 (68 FR 3475). That action proposed to require removal and replacement of protective coating of 7th, 8th, 9th, 10th, 11th, and 12th stage HPC disks, initial and repetitive inspections for corrosion pits and cracks, and removal from service as required in accordance with Pratt & Whitney (PW) Alert Service Bulletin (ASB) No. JT8D A6431, dated November 27, 2002. Since the publication of the proposed rule, PW ASB No. JT8D A6431 was reissued as Revision 1 on March 7, 2003.

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.

Effective Dates Should Coincide

One commenter states that the effective date of the AD should coincide with the revision of the Standard Practices Manual to incorporate the disk preservation and storage instructions.

The FAA does not agree. The Standard Practice Manual will be updated to incorporate the disk preservation steps specified in PW ASB No. JT8D A6431, Revision 1, dated March 7, 2003; however until that time, the steps specified in the accomplishment instructions, Paragraphs 8.A. through 8.H. of the ASB, are sufficient to properly perform the preservation technique. Therefore, no changes will be made to the AD.

Underestimated Operational Impact

One commenter states that the operational impact on the operators of the proposed requirements is underestimated. The commenter believes that the more stringent inspection requirements on certain 9th stage HPC disks will increase the demand on other 9th stage HPC disks creating industry shortages.

The FAA agrees. The FAA and the original equipment manufacturer (OEM) are aware that the demand for new 9th stage HPC disks will increase because of the more stringent re-inspection requirements imposed on older 9th stage disks. As a result, steps have been initiated at the OEM to meet the increased demand. The FAA expects that the steps the OEM has taken will prevent industry shortages significant enough not to change the economic impact of this AD. Therefore, no changes will be made to the AD.

Underestimated Costs of Replacement Disks

One commenter states that the costs associated with a new HPC disk are underestimated. The commenter notes that the $7,000 cost of a replacement disk specified in the proposed rule is too low, and that new disk prices range from $11,920 to $23,190.

The FAA does not agree. The FAA believes that it is not necessary to include the full cost of the disk in the economic analysis because the disks must be replaced before reaching their certified life, which would be part of the normal costs of operation. The $7,000 figure is the prorated replacement cost of the disk. This figure is the estimated average residual value of disks lost due to removal before reaching the full certified life of the disk. Therefore, no changes will be made to the AD.

Allowance for Preservation Status

One commenter requests that the AD include a provision to allow spare engines and disks not to accumulate time if placed in a preservation status in accordance with the JT8D Maintenance Manual. The commenter believes that once the engine is installed, then time will accumulate from the installation date, and this will allow the operators to maintain spare equipment and comply with the AD.

The FAA agrees. As the proposed rule is currently worded, an engine or disk does not accumulate time while in storage if preserved in accordance with procedures described in the compliance section of PW ASB No. JT8D A6431, Revision 1, dated March 7, 2003. Paragraphs 1.C. and 1.D of the compliance section of the ASB explain the storage requirements for the full engine and disk piece-parts respectively, and the associated time credits allowed for each storage method. Therefore, no changes will be made to the AD.

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 as proposed.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it

would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by removing Amendment 39–10563 (63 FR 31340, June 9, 1998) and by adding a new airworthiness directive, Amendment 39–13192, to read as follows:

2003–12–07 Pratt & Whitney: Amendment 39–13192. Docket No. 97–ANE–05–AD. Supersedes AD 98–12–07, Amendment 39–10563.

Applicability: This airworthiness directive (AD) is applicable to Pratt & Whitney (PW) JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR turbofan engines. These engines are installed on, but not limited to Boeing 737 and 727 series, and McDonnell Douglas DC–9 series airplanes.

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

Compliance: Compliance with this AD is required as indicated, unless already done. To prevent fracture of the 7th, 8th, 9th, 10th, 11th, and 12th stage high pressure compressor (HPC) disks, which can result in uncontained release of engine fragments, inflight engine shutdown, and airframe damage, do the following:

(a) Perform initial and repetitive inspections of HPC disks for corrosion pits and cracks after stripping the protective coating in accordance with the intervals specified in the compliance section and procedures specified in the accomplishment instructions of PW Alert Service Bulletin (ASB) No. JT8D A6431, Revision 1, dated March 7, 2003.

(b) Before further flight, replace HPC disks found with corrosion pits or cracks beyond serviceable limits as defined by PW ASB No. JT8D A6431, Revision 1, dated March 7, 2003.

(c) For the purposes of this AD, use the effective date of this AD for computing compliance intervals whenever PW ASB No. JT8D A6431, Revision 1, dated March 7, 2003, refers to the release date of the ASB.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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

(e) 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 airplanes to a location where the requirements of this AD can be done.

Documents That Have Been Incorporated by Reference

(f) The actions must be done in accordance with Pratt & Whitney Alert Service Bulletin No. JT8D A6431, Revision 1, dated March 7, 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 Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–6600; fax (860) 565–4503. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on July 18, 2003.

Issued in Burlington, Massachusetts, on June 5, 2003.

Peter A. White,

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

[FR Doc. 03–14844 Filed 6–12–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–14843; Airspace Docket No. 03–ACE–28]

Modification of Class E Airspace; Rock Rapids, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Rock Rapids, IA.

EFFECTIVE DATE: 0901 UTC August 7, 2003.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on April 15, 2003 (68 FR 18115). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on August 7, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on June 3, 2003.

Anthony D. Roetzel,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 03–14999 Filed 6–12–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–14927; Airspace Docket No. 03–ACE–33]

Modification of Class E Airspace; Crete, NE

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Crete, NE.

EFFECTIVE DATE: 0901 UTC, July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on April 23, 2003 (68 FR 19945). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on July 10, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on June 3, 2003.

Anthony D. Roetzel,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 03–14998 Filed 6–12–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–14868; Airspace Docket No. 2003–ANE–103]

Amendment to Class E Airspace; Windsor Locks, Bradley International Airport, CT

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of a direct final rule revising the Class E airspace area at Windsor Locks, Bradley International Airport, Connecticut (KBDL), to provide for adequate controlled airspace for those aircraft using Instrument Approach Procedures to the airport.

EFFECTIVE DATE: The direct final rule published at 68 FR 18860 is effective 0901 UTC, July 10, 2003.

FOR FURTHER INFORMATION CONTACT: John Donnelly, Air Traffic Division, Airspace Branch, ANE–520, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7552; fax (781) 238–7596.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on April 17, 2003 (Vol. 68, No. 74, FR 18860). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on July 10, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Burlington, MA, on June 3, 2003.

Thomas R. Davidson,

Manager, Air Traffic Division, New England Region.

[FR Doc. 03–14997 Filed 6–12–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA 2002–13362; Airspace Docket No. 02–ASO–7]

RIN 2120–AA66

Revision of VOR Federal Airways and Jet Routes in the Vicinity of Savannah, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects a final rule published in the **Federal Register** on May 15, 2003. Due to an error in rounding decimal places, the legal description of Federal Airway V–437 inadvertently contained an incorrect radial. This action corrects that error.

EFFECTIVE DATE: June 13, 2003.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION: On May 15, 2003, Docket No. FAA 2002–13362; Airspace Docket No. 02–ASO–7, FR Doc. 03–12049, was published revising seven VOR Federal airways and four jet routes in the vicinity of Savannah, GA. The legal description of Federal Airway V–437 contained an incorrect radial from the Savannah VORTAC. Due to an error in rounding decimal places, the affected radial was published as the ''Savannah 053°'' radial instead of the correct value which is the ''Savannah 054°'' radial. This action corrects that error by inserting the correct radial in the legal description.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the legal description for V–437 as published in the **Federal Register** on May 15, 2003 (68 FR 26202); FR Doc. 03–12049, and incorporated by reference in 14 CFR 71.1, is corrected as follows:

§ 71.1 [Corrected]

On page 26204 in the first column, correct the legal description of V–437 to read as follows:

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V–437 [Corrected]

From Dolphin, FL; INT Dolphin 354° and Pahokee, FL, 157° radials; Pahokee;

Melbourne, FL; INT Melbourne 322° and Ormond Beach, FL, 211° radials; Ormond Beach; INT Ormond Beach 360° and Savannah, GA, 177° radials; Savannah; INT Savannah 054° and Charleston, SC, 231° radials; Charleston; to Florence, SC. The airspace within R–2935 is excluded.

* * * * *

Issued in Washington, DC, on June 9, 2003.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 03–14996 Filed 6–12–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 401, 404, and 413

[Amendment No. 401–3, 404–2, 413–5]

Commercial Space Transportation; Licensing Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: The FAA is amending its commercial space transportation regulations to update an address and certain job titles, to accurately reflect the current organization of the regulations, and to delete some non-essential information. These administrative changes are necessary to keep our regulations clear, accurate, and current. The intended effect is to make our regulations easier for the public and regulated industry to use.

DATES: This rule is effective on June 13, 2003.

FOR FURTHER INFORMATION CONTACT: Charles Huet, Office of Commercial Space Transportation, 800 Independence Avenue, Washington, DC 20591; telephone (202) 385–4659.

SUPPLEMENTARY INFORMATION: The FAA is making some technical or administrative changes to its commercial space transportation regulations. These changes do not affect the substance of the existing regulations, impose no new requirements, and have no impact on activities carried out under the regulations.

The Secretary of Transportation has delegated commercial space licensing authority, which had previously been a function within the Office of the Secretary, to the Federal Aviation Administration. As a result, the address of the Office of Commercial Space Transportation changed. The title of the head of the office changed. Also, the official who designates a legal officer for a regulatory hearing changed. Today's amendments reflect these changes.

The Commercial Space Act of 1998 (Pub. L. 105–303) expanded the jurisdiction of the Office of Commercial Space Transportation. In addition to its previous responsibility, the office now licenses launch of a reusable launch vehicle, operation of a reentry site, and reentry of a reentry vehicle. Previously, the FAA amended the regulations to add parts addressing these areas. The FAA is now amending 14 CFR 413.1 by adding a chart that guides the applicant to the appropriate part.

Procedural Matters

Under the Administrative Procedure Act (APA), 5 U.S.C. 553, agencies must generally publish regulations for public comment and give the public at least 30 days notice before adopting regulations. There is an exception to these requirements if the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. In this case, the FAA finds that notice and comment requirements are unnecessary due to the administrative nature of the changes. The changes do not affect the rights or obligations of any regulated entity. It is in the public interest that the changes take effect promptly.

List of Subjects

14 CFR Part 401

Organization and functions (Government agencies), Space transportation and exploration.

14 CFR Part 404

Administrative practice and procedure, Space transportation and exploration.

14 CFR Part 413

Confidential business information, Space transportation and exploration.

The Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends Chapter I of Title 14, Code of Federal Regulations as follows:

PART 401—ORGANIZATION AND DEFINITIONS

■ 1. The authority citation for part 401 continues to read as follows:

Authority: 49 U.S.C. 70101–70121.

■ 2. Revise § 401.1 to read as follows:

§ 401.1 The Office of Commercial Space Transportation.

The Office of Commercial Space Transportation, referred to in these regulations as the ''Office,'' is a line of business within the Federal Aviation Administration and is located in the Federal Aviation Administration Headquarters, 800 Independence Avenue, SW., Room 331, Washington, DC 20591.

§ 401.3 [Amended]

■ 3. Amend § 401.3 by removing the words ''a Director'' and adding in its place the words ''an Associate Administrator''.

PART 404—REGULATIONS AND LICENSING REQUIREMENTS

■ 4. The authority citation for part 404 continues to read as follows:

Authority: 49 U.S.C. 70101–70121.

§§ 404.3, 404.5, 404.11, 404.13, 404.17, and 404.19 [Amended]

■ 5. In 14 CFR part 404, remove the word ''Director'' and add, in its place, the words ''Associate Administrator'' in the following places:

■ a. Section 404.3(c);
■ b. Section 404.5;
■ c. Section 404.11;
■ d. Section 404.13;
■ e. Section 404.17; and
■ f. Section 404.19(b).

■ 6. Revise the second sentence of § 404.19(b) to read as follows:

§ 404.19 Hearings.

* * * * *

(b) * * * The FAA Chief Counsel designates a legal officer for the hearing.

PART 413—LICENSE APPLICATION PROCEDURES

■ 7. The authority citation for part 413 continues to read as follows:

Authority: 49 U.S.C. 70101–70121.

■ 8. Revise § 413.1 to read as follows:

§ 413.1 Scope.

(a) This part prescribes the procedures applicable to applications submitted under this chapter to conduct licensed activities. These procedures apply to all applications for issuance of a license, transfer of an existing license, and renewal of an existing license.

(b) Use the following table to locate specific requirements:

Subject	Part
(1) Launch License	415
(2) License to Operate a Launch Site	420
(3) Launch and Reentry of a Reusable Launch Vehicle (RLV)	431
(4) License to Operate a Reentry Site	433

Subject	Part
(5) Reentry of a Reentry Vehicle other than a Reusable Launch Vehicle (RLV)	435

Issued in Washington, DC, on June 10, 2003.

Donald P. Byrne,

Assistant Chief Counsel, Regulations Division.

[FR Doc. 03–14995 Filed 6–12–03; 8:45 am]

BILLING CODE 4910–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1260

NASA Grant and Cooperative Agreement Handbook—Unsolicited Proposals

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This final rule amends the NASA Grant and Cooperative Agreement Handbook to consolidate existing coverage regarding unsolicited proposals awarded as grants or cooperative agreements under a single new section.

EFFECTIVE DATE: June 13, 2003.

FOR FURTHER INFORMATION CONTACT: Paul Brundage, NASA Headquarters, Code HC, Washington, DC, (202) 358–0481, e-mail: *paul.brundage@hq.nasa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

Coverage regarding unsolicited proposals awarded as grants or cooperative agreements is set out in different sections of NASA's Grant and Cooperative Agreement Handbook. This change consolidates and clarifies that coverage in a new § 1260.17.

B. Regulatory Flexibility Act

NASA certifies that this final 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.,* because the changes merely consolidates existing guidance.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose any new recordkeeping or information collection requirements, or collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et. seq.*

List of Subjects in 14 CFR Part 1260

Grant programs—science and technology.

Tom Luedtke,

Assistant Administrator for Procurement.

Accordingly, 14 CFR part 1260 is amended as follows:

■ 1. The authority citation for 14 CFR part 1260 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1), Pub. L. 97–258, 96 Stat. 1003 (31 U.S.C. 6301, *et seq.*,) and OMB Circular A–110.

PART 1260—GRANTS AND COOPERATIVE AGREEMENT

■ 1. In section 1260.10, revise paragraph (a)(2) to read as follows:

§ 1260.10 Proposals.

(a) * * *

(2) An *unsolicited proposal.* (*See* § 1260.17.)

■ 2. In section 1260.11, revise paragraph (d) to read as follows:

§ 1260.11 Evaluation and selection.

(d) For unsolicited proposals, *see* § 1260.17.

■ 3. Add section 1260.17 to read as follows:

§ 1260.17 Evaluation and selection of unsolicited proposals.

(a) Unsolicited proposals are for new and innovative ideas. Federal Acquisition Regulation (FAR) 48 CFR Subpart 15.6 and NASA FAR Supplement (NFS) 48 CFR Subpart 1815.6 set out NASA's procedures for their submission and evaluation. Consult ''Guidance for the Preparation and Submission of Unsolicited Proposals'' (*see http://ec.msfc.nasa.gov/hq/library/unSol-Prop.html*) for additional information. NASA recommends contact with NASA technical personnel before submission of an unsolicited proposal to determine if preparation is warranted. These discussions should be limited to understanding NASA's need for research and do not jeopardize the unsolicited status of any subsequently submitted proposal.

(b) NASA will evaluate unsolicited proposals the same whether awarded as grants or contracts. However, the requirement to synopsize set out in FAR Part 5 does not apply to grants.

(c) All unsolicited proposals recommended for acceptance as grants shall be supported by a Justification for Acceptance of an Unsolicited Proposal (JAUP) prepared by the cognizant technical office. The JAUP shall be submitted for the approval of the grant officer after review and concurrence at a level above the technical officer. However, review and concurrence are not required for technical officers at a division chief or higher level. The grant officer's signature awarding the grant constitutes approval of the JAUP.

(d) If an unsolicited proposal will not be funded, NASA will notify in writing the organization or person that submitted it. The method of notification is at the discretion of the grant officer. Proposals will be returned only when requested.

(e) Because unsolicited proposals are awarded without competition, written justifications for equipment and travel shall be submitted by the technical office to the grant officer when more than half of the proposed budget is for equipment, travel, and their associated indirect costs. The grant officer's signature awarding the grant constitutes approval of the justification.

[FR Doc. 03–14935 Filed 6–12–03; 8:45 am]

BILLING CODE 7510–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 347

[Docket No. 78N–021A]

RIN 0910–AA01

Skin Protectant Drug Products for Over-the-Counter Human Use; Astringent Drug Products; Final Monograph; Direct Final Rule

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulation that established conditions under which over-the-counter (OTC) skin protectant astringent drug products are generally recognized as safe and effective and not misbranded. This action revises some labeling for astringent drug products to be consistent with the final rule for OTC skin protectant drug products (68 FR 33362, June 4, 2003) and adds labeling for certain small packages (styptic pencils). This action is part of FDA's ongoing review of OTC drug products. Elsewhere in this issue of the **Federal Register**, FDA is publishing a companion proposed rule, under FDA's usual procedure for notice-and-comment rulemaking, to provide a procedural framework to finalize the

rule in the event the agency receives any significant adverse comments and withdraws this direct final rule.

DATES:

Effective Date: This rule is effective October 27, 2003.

Compliance Dates: The compliance dates are either June 13, 2005, or the date of the first major labeling revision after the effective date of October 27, 2003, whichever occurs first.

Comment Dates: Submit written comments by August 27, 2003. If no timely significant adverse comments are received, the agency will publish a document in the **Federal Register** before September 26, 2003, confirming the effective date of the direct final rule. If timely significant adverse comments are received, the agency will publish a document of significant adverse comments in the **Federal Register** and withdraw this direct final rule before September 26, 2003.

ADDRESSES: Submit written comments on the direct final rule to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Gerald M. Rachanow, Center for Drug Evaluation and Research (HFD–560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2307.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of October 21, 1993 (58 FR 54458), FDA published a final monograph for OTC skin protectant astringent drug products in part 347 (21 CFR part 347), subpart A (the 1993 skin protectant final monograph). In the **Federal Register** of June 4, 2003 (68 FR 33362), FDA published a final rule for OTC skin protectant drug products (the 2003 skin protectant final monograph) and revised the format of part 347. Subpart A was redesignated as ''General Provisions,'' and the astringent active ingredients (§ 347.10) and labeling (§ 347.50) were redesignated as §§ 347.12 and 347.52, respectively.

Two ingredients (colloidal oatmeal and sodium bicarbonate) added to the skin protectant monograph are used as a soak, compress, or wet dressing similar to the astringent active ingredient aluminum acetate. In the 2003 skin protectant final monograph, the agency included a warning about soaking too long (§ 347.50(c)(7)) and included directions for colloidal oatmeal (§ 347.50(d)(2)) and sodium bicarbonate (§ 347.50(d)(3)) that are shorter than the directions for aluminum acetate (§ 347.52(d)(1)) and that are in the new OTC drug labeling format. In this direct final rule, the agency is adding this warning, shortening the directions for aluminum acetate drug products, and arranging these directions in the new OTC drug labeling format.

Section 201.66(d)(10) (21 CFR 201.66(d)(10)) of the OTC drug labeling rule (64 FR 13254 at 13286, March 17, 1999) establishes a modified labeling format for small packages that need more than 60 percent of their total surface area available to bear labeling to meet the requirements of § 201.66(c)(1) through (c)(9) and (d)(1) through (d)(9). The agency stated in that rule that it would consider additional approaches for accommodating certain products in their respective monographs, taking into consideration the risks and benefits of the drug, the intended use, and the need to communicate limitations or restrictions about the use of the product to the target population (64 FR 13254 at 13270, March 17, 1999). The 2003 skin protectant final monograph included additional labeling exemptions for certain small packages (lip protectant products) that meet the size criteria established in § 201.66(d)(10). The agency determined that lip protectant/lip balm products are typically packaged in small amounts, applied to limited areas of the body, have a high therapeutic index, carry extremely low risk in actual consumer use situations, provide a favorable public health benefit, require no specified dosage limitation, and require few specific warnings and no general warnings (e.g., pregnancy or overdose warnings).

Consequently, the agency is now including additional labeling exemptions for certain small packages of skin protectant astringent drug products (styptic pencils) that meet the criteria established in § 201.66(d)(10), taking into consideration the risks and benefits of the drug, the intended use, and the need to communicate limitations or restrictions about the use of the product to the target population. For the safety profile of styptic pencils, the agency considered the recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products (the Panel). The Panel noted that ''In 75 years of marketing styptic pencils there have been [no] reported instances of human toxicity'' (47 FR 39412 at 39429, September 7, 1982). (The word ''no'' was inadvertently left out of the September 7, 1982, publication, and the agency corrected this error in its notice of proposed rulemaking for OTC skin protectant astringent drug products (54 FR 13490 at 13493, April 3, 1989).) The Panel also stated that aluminum sulfate (the active ingredient in styptic pencils) ''has little, if any, cell permeability and exerts its effect on the cell surface.'' The only side effect the Panel noted was that application of the styptic pencil on a cut may result in some stinging. Thus, these products have an extremely low risk in actual consumer use situations, and the monograph only requires two general warnings (§ 347.50(c)(1)) and no ingredient specific warnings.

The agency also considered the factors listed previously that were the basis for labeling modifications for OTC lip protectant/lip balm drug products. Like those products, styptic pencils are packaged in small amounts, have a high therapeutic index and a favorable public health benefit (stop bleeding), would be used infrequently and on very limited areas of the body to stop bleeding of minor cuts from shaving, require minimal warnings (there is no pregnancy warning because this is a topical product), and have no specified dosage limitation (the directions for use are to apply to the affected area). For these reasons, the agency is including specific labeling provisions for certain small packages of skin protectant astringent drug products (styptic pencils) in this direct final rule.

II. Description of the Labeling Revisions

The warning in § 347.50(c)(7), when the colloidal oatmeal or sodium bicarbonate product is labeled for use as a soak, compress, or wet dressing, states: ''When using this product [bullet] in some skin conditions, soaking too long may overdry.'' The agency is adding this warning in new § 347.52(c)(4) for products containing aluminum acetate when labeled for use as a soak, compress, or wet dressing. Our decision to revise the warning set forth in this direct final rule is based upon a finding that bathing can dry the skin out and exacerbate some conditions (as discussed in the 2003 skin protectant final monograph, 68 FR 33362 at 33367). Mandating a warning does not require a finding that any or all of the astringent drug products actually caused an adverse event, and FDA does not so find. Nor does FDA's mandate of a warning repudiate the OTC drug monograph under which the affected drug products have been lawfully marketed. Rather, as a consumer protection agency, FDA has determined that this revised warning is necessary to ensure that these OTC drug products continue to be safe and effective for their labeled indications under ordinary conditions of use as those terms are

defined in the Federal Food, Drug, and Cosmetic Act.

FDA's decision to act in an instance such as this one need not meet the standard of proof required to prevail in a private tort action (*Glastetter* v. *Novartis Pharmaceuticals, Corp.*, 252 F.3d 986, 991 (8th Cir. 2001)). To mandate a warning, or take similar regulatory action, FDA need not show, nor do we allege, actual causation.

The agency is revising the directions in § 347.52(d)(1)(i) for aluminum acetate used as a soak to read: ''For use as a soak: [bullet] soak affected area for 15 to 30 minutes as needed, or as directed by a doctor [bullet] repeat 3 times a day or as directed by a doctor [bullet] discard solution after each use''. The agency is revising the directions in § 347.52(d)(1)(ii) for aluminum acetate used as a compress or wet dressing to read: ''For use as a compress or wet dressing: [bullet] soak a clean, soft cloth in the solution [bullet] apply cloth loosely to affected area for 15 to 30 minutes [bullet] repeat as needed or as directed by a doctor [bullet] discard solution after each use''. The agency is also shortening the directions in § 347.52(d)(3) for products containing witch hazel to read: ''apply as often as needed''.

The agency is adding new § 347.52(e) for products containing aluminum sulfate formulated as a styptic pencil. This section allows products that meet the criteria established in § 201.66(d)(10) to be marketed with reduced labeling.

III. Direct Final Rulemaking

FDA has determined that the subject of this rulemaking is suitable for a direct final rule. This direct final rule revises several older labeling warnings and directions for OTC skin protectant astringent drug products for consistency with recently issued labeling for OTC skin protectant drug products and updates the labeling to the new OTC drug labeling format. The actions taken should be noncontroversial, and the agency does not anticipate receiving any significant adverse comment on this rule.

If FDA does not receive significant adverse comment by 75 days after the date of publication in the **Federal Register**, the agency will publish a document in the **Federal Register** confirming the effective date of the direct final rule. A significant adverse comment is one that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment recommending a rule change in addition to this rule will not be considered a significant adverse comment unless the comment states why this rule would be ineffective without the additional change. If timely significant adverse comments are received, the agency will publish a notice of significant adverse comment in the **Federal Register** withdrawing this direct final rule.

Elsewhere in this issue of the **Federal Register**, FDA is publishing a companion proposed rule, identical to the direct final rule, that provides a procedural framework within which the proposed rule may be finalized in the event the direct final rule is withdrawn because of significant adverse comment. The comment period for the direct final rule runs concurrently with that of the companion proposed rule. Any comments received under the companion proposed rule will be treated as comments regarding the direct final rule. Likewise, significant adverse comments submitted to the direct final rule will be considered as comments to the companion proposed rule and the agency will consider such comments in developing a final rule. FDA will not provide additional opportunity for comment on the companion proposed rule.

If a significant adverse comment applies to part of this direct final rule and that part may be severed from the remainder of the rule, FDA may adopt as final those parts of the rule that are not the subject of a significant adverse comment. A full description of FDA's policy on the direct final rule procedures may be found in a guidance document published in the **Federal Register** of November 21, 1997 (62 FR 62466).

IV. Analysis of Impacts

FDA has examined the impacts of the direct final rule under Executive Order 12866, 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). Under the Regulatory Flexibility Act, if a rule has a significant economic impact on a substantial number of small entities, an agency must analyze regulatory options that would minimize any significant impact of the rule on small entities. Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement and economic analysis before proposing any rule that may result in an expenditure in any one year by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation). The rule that led to the development of this direct final rule was published on October 21, 1993, before the Unfunded Mandates Reform Act of 1995 was enacted. The agency explains in this direct final rule that the direct final rule will not result in an expenditure in any one year by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million.

The agency concludes that this direct final rule is consistent with the principles set out in the Executive order and in these two statutes. The direct 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. FDA has determined that the direct final rule does not have a significant economic impact on a substantial number of small entities. The Unfunded Mandates Reform Act does not require FDA to prepare a statement of costs and benefits for this final rule, because the final rule is not expected to result in any 1-year expenditure that would exceed $100 million adjusted for inflation. The current inflation adjusted statutory threshold is about $110 million.

The purpose of this direct final rule is to make some minor labeling revisions in the previously issued astringents portion of the skin protectant drug products monograph to make the labeling consistent with the rest of the monograph and to add small package labeling provisions for aluminum sulfate marketed as a styptic pencil.

Current manufacturers of these products should incur only minor costs to relabel their products to meet the monograph. Some manufacturers will have to add a warning and revise the directions in their labeling. The agency is providing either 24 months from the date of publication of this direct final rule or the date of the first major labeling revision after the 135-day effective date of this direct final rule, whichever occurs first, for the manufacturers to use up existing labeling and print new labeling that incorporates the labeling in this direct final rule. Further, the labeling in the direct final rule is in the new OTC drug labeling format. Therefore, no additional professional skills are needed and manufacturers will not incur expenses

determining how to state the product's labeling.

The agency believes that relabeling costs of the type required by this direct final rule generally average about $2,000 to $3,000 per stock keeping unit (SKU) (individual products, packages, and sizes). Assuming that there are about 25 affected OTC SKU's in the marketplace, total one-time costs of relabeling would be $50,000 to $75,000. The agency believes that the actual cost could be lower for the reasons stated in the previous paragraph.

For the reasons stated previously and under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commissioner certifies that this direct final rule will not have a significant economic impact on a substantial number of small entities.

V. Paperwork Reduction Act of 1995

FDA concludes that the labeling requirements in this document are not subject to review by the Office of Management and Budget because they do not constitute a ''collection of information'' under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Rather, the labeling statements are a ''public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public'' (5 CFR 1320.3(c)(2)).

VI. Environmental Impact

The agency has determined under 21 CFR 25.31(a) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VII. Federalism

FDA has analyzed this direct 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 Executive order and, consequently, a federalism summary impact statement is not required.

VIII. Comments

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments to *http://www.fda.gov/dockets/ecomments* or three hard copies of any written comments, except that individuals may submit one hard copy. Comments are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 347

Labeling, Over-the-counter drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 347 is amended to read as follows:

PART 347—SKIN PROTECTANT DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

■ 1. The authority citation for 21 CFR part 347 continues to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

■ 2. Section 347.52 is amended by adding paragraphs (c)(4) and (e) and by revising paragraphs (d)(1)(i), (d)(1)(ii), and (d)(3) to read as follows:

§ 347.52 Labeling of astringent drug products.

* * * * *

(c) * * *

(4) *For products containing aluminum acetate identified in § 347.12(a) when labeled for use as a soak, compress, or wet dressing.* ''When using this product [bullet] in some skin conditions, soaking too long may overdry''.

(d) * * *

(1) * * *—(i) *For products used as a soak.* ''For use as a soak: [bullet] soak affected area for 15 to 30 minutes as needed, or as directed by a doctor [bullet] repeat 3 times a day or as directed by a doctor [bullet] discard solution after each use''.

(ii) *For products used as a compress or wet dressing.* ''For use as a compress or wet dressing: [bullet] soak a clean, soft cloth in the solution [bullet] apply cloth loosely to affected area for 15 to 30 minutes [bullet] repeat as needed or as directed by a doctor [bullet] discard solution after each use''.

* * * * *

(3) *For products containing witch hazel identified in § 347.12(c).* ''Apply as often as needed''.

(e) *Products formulated and labeled as a styptic pencil and that meet the criteria established in § 201.66(d)(10) of this chapter.* The title, headings, subheadings, and information described in § 201.66(c) of this chapter shall be printed in accordance with the following specifications:

(1) The labeling shall meet the requirements of § 201.66(c) of this chapter except that the headings and information described in § 201.66(c)(3) and (c)(7) may be omitted, and the headings, subheadings, and information described in § 201.66(c)(4) and (c)(5) may be presented as follows:

(i) The heading and indication required by § 201.66(c)(4) of this chapter may be limited to: ''Use [in bold type] stops bleeding of minor cuts from shaving''.

(ii) The ''external use only'' warning in § 347.52(c)(1) and in § 201.66(c)(5)(i) of this chapter may be omitted. The second warning in § 347.52(c)(1) may state: ''avoid contact with eyes''. The warning in § 201.66(c)(5)(x) may be limited to the following: ''Keep out of reach of children.'' The subheadings in § 201.66(c)(5)(iii) through (c)(5)(vii) may be omitted, provided the information after the heading ''Warning'' contains the warnings in this paragraph.

(2) The labeling shall be printed in accordance with the requirements of § 201.66(d) of this chapter except that any requirements related to § 201.66(c)(3) and (c)(7), and the horizontal barlines and hairlines described in § 201.66(d)(8), may be omitted.

Dated: May 27, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–14818 Filed 6–12–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[DEA–236S]

Schedules of Controlled Substances: Exempt Anabolic Steroid Products

AGENCY: Drug Enforcement Administration (DEA), Department of Justice.

ACTION: Suspension of interim rule.

SUMMARY: The DEA is suspending the order published January 15, 2003 designating two pharmaceutical preparations as exempt anabolic steroid products under the Controlled Substances Act (CSA). This suspension was brought about by the receipt of two

comments that raised significant issues regarding the order. This action is part of the ongoing implementation of the Anabolic Steroid Control Act (ASCA) of 1990.

EFFECTIVE DATE: June 13, 2003.

FOR FURTHER INFORMATION CONTACT: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION:

Background

The ASCA of 1990 (Title XIX of Pub. L. 101–647) placed anabolic steroids into Schedule III of the CSA (21 U.S.C. 812). Section 1903 of the ASCA provides that the Attorney General may exempt products which contain anabolic steroids from all or any part of the CSA (21 U.S.C. 801 *et seq.*) if the products have no significant potential for abuse. The authority to exempt these products was delegated from the Attorney General to the Administrator of the Drug Enforcement Administration (28 CFR 0.1009b), who, in turn, redelegated this authority to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (28 CFR appendix to subpart R, Section 7, paragraph (g)). The procedure for implementing this section of the ASCA is found in § 1308.33 of Title 21 of the Code of Federal Regulations.

In conformance with § 1308.33 of Title 21 of the Code of Federal Regulations, an application was received from Syntho Pharmaceuticals to exempt two of their anabolic steroid products, Syntest H.S. and Syntest D.S. This application was forwarded to the Secretary of Health and Human Services (HHS) for his evaluation. Upon the recommendation of HHS and other relevant information, the DEA published an interim rule and request for comments (68 FR 1964, January 15, 2003) in which the Deputy Assistant Administrator ordered the products to be added to the list of exempt anabolic steroids.

Suspension of Order To Add Anabolic Steroid Products to the List of Products Exempted From Application of the CSA

DEA received two comments from interested persons that raised significant issues regarding findings of fact or conclusions of law upon which this order was based. As set forth in 21 CFR 1308.33(d), the Deputy Assistant Administrator hereby immediately suspends the effectiveness of this order until she may reconsider the application in light of the comments and objections filed. Thereafter, the Deputy Assistant Administrator will reinstate, revoke, or amend her original order as she determines appropriate.

Dated: June 4, 2003.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 03–14901 Filed 6–12–03; 8:45 am]

BILLING CODE 4410–09–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in July 2003. Interest assumptions are also published on the PBGC's Web site (*http://www.pbgc.gov*).

EFFECTIVE DATE: July 1, 2003.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in appendix B to part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in appendix B to part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in appendix C to part 4022).

Accordingly, this amendment (1) adds to appendix B to part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during July 2003, (2) adds to appendix B to part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during July 2003, and (3) adds to appendix C to part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during July 2003.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in appendix B to part 4044) will be 4.30 percent for the first 20 years following the valuation date and 5.25 percent thereafter. These interest assumptions represent a decrease (from those in effect for June 2003) of 0.40 percent for the first 20 years following the valuation date and are otherwise unchanged.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in appendix B to part 4022) will be 3.00 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions represent a decrease (from those in effect for June 2003) of 0.50 percent for the period during which a benefit is in pay status and are otherwise unchanged.

For private-sector payments, the interest assumptions (set forth in appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during July 2003, the PBGC finds that good cause exists for making the assumptions set forth in this

amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. *See* 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

■ In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 117, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*		*	*
117	7–1–03	8–1–03	3.00	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 117, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*		*	*
117	7–1–03	8–1–03	3.00	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 5. In appendix B to part 4044, a new entry, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4044—Interest Rates Used to Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
*	*	*	*	*	*	*
July 2003	.0430	1–20	.0525	>20	N/A	N/A

Issued in Washington, DC, on this 9th day of June 2003.

Joseph H. Grant,

Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation.

[FR Doc. 03–14952 Filed 6–12–03; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD07–03–051]

RIN 1625–AA09

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Mile 1070.5 at Hollywood, Broward County, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the regulations governing the operation of the Sheridan Street Bridge, mile 1070.5, Hollywood, Broward County, Florida. This temporary rule allows this bridge to limit openings to a single leaf not more than once every 20 minutes. Double-leaf openings will be available during certain times with a two-hour advance notice to the bridge tender. This temporary rule is necessary to allow the bridge owner to safely complete repairs to the bridge.

DATES: This rule is effective from 7 a.m. on June 5, 2003 to 6 p.m. on September 26, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [CGD07–03–051] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, Florida 33131 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Lieberum, Project Officer, Seventh Coast Guard District, Bridge Branch at (305) 415–6744.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NRPM) 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 would be impracticable and contrary to the public interest. Publishing an NPRM and delaying the effective date of the rule would adversely affect public safety by delaying the contractor's ability to safely repair the bridge.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

The Sheridan Street Bridge, mile 1070.5 at Hollywood, Broward County, Florida, has a vertical clearance of 22 feet at mean high water and a horizontal clearance of 45 feet between the down span and the fender system. The existing operating regulations in 33 CFR 117.5 require the bridge to open on signal.

On February 28, 2003, PCL Contractors requested that the Coast Guard modify the bridge opening schedule because of safety issues including, but not limited to, welding deck plates and modifying counterweight girders. Specifically, they requested that the bridge open only a single leaf no more than every 20 minutes with double-leaf openings available, during certain periods, with two hours advance notice given to the bridge tender. Double-leaf openings, however, will not be available from June 5 until July 3, 2003, because painting tarps will be in position to catch lead paint. Also, workers will be modifying the bridge's counterweights at that time. The contractor will be working 24 hours a day, seven days a week to complete bridge repairs as quickly as possible. This rule is necessary to ensure worker safety during repairs to the bridge and does not significantly hinder navigation. During this time of year, the majority of vessels that would normally require a double-leaf opening will be traversing the open ocean and not using the Intracoastal Waterway.

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 Homeland Security (DHS). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary, because the regulations affect a limited amount of marine traffic and only for certain periods. Most vessels will be able to safely transit through a single span of the bridge, and both spans of the bridge will open with two hours advance notice to the bridge tender, except from June 5 until July 3, 2003.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this temporary rule will not have a significant economic impact on a substantial number of small entities. Most vessels will be able to safely transit through a single span of the bridge, and both spans of the bridge can be opened with two hours advanced notice to the bridge tender, except from June 5 to July 3, 2003.

Assistance for Small Entities

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

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 temporary 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 Executive Order 13132 and have determined that this rule 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 regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Although this temporary rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in the preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (32)(e), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170; 33 CFR 1.05–1(g); Section 117.255 also issued under authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From 12:01 a.m. on June 5, 2003, until 6 p.m. on September 26, 2003, in § 117.261, add a new paragraph (tt) to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

* * * * *

(tt) The Sheridan Street Bridge, mile 1070.5 at Hollywood, need only open a single leaf of the bridge on the hour, 20 minutes after the hour, and 40 minutes after the hour, except that from 6:01 p.m. July 3, 2003, until 6 p.m. on September 26, 2003, both leaves of the bridge will open at these times if the drawtender receives two hours advance notice requesting a double-leaf opening.

Dated: May 30, 2003.

James S. Carmichael,

Rear Admiral, Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 03–14987 Filed 6–12–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 1

RIN 2900–AL33

Privacy Act of 1974; Implementation

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends Department of Veterans Affairs (VA) regulations governing the confidentiality and release of VA records subject to the Privacy Act, 5 U.S.C. 552a. It revises the regulation which exempts certain records from the provisions of the Privacy Act authorized under 5 U.S.C. 552a(j)(2) and (k)(2). This revision permits VA to exempt a new Privacy Act system of records, Police and Security Records—VA (103VA07B).

DATES: This final rule is effective August 12, 2003.

FOR FURTHER INFORMATION CONTACT: Director Police and Security Service (07B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, telephone (202) 273–5544.

SUPPLEMENTARY INFORMATION: This document sets forth the VA regulation to exempt from certain provisions of the Privacy Act an additional VA Privacy Act system of records (see, 38 CFR 1.582) by adding a new system of records, ''Police and Security Records—VA (103VA07B),'' to that VA system of records already exempt under § 1.582.

In a document published in the **Federal Register** on December 19, 2002 (67 FR 77737), VA proposed to amend VA regulations governing the confidentiality and release of VA records subject to the Privacy Act to exempt certain records from the provisions of the Privacy Act authorized under 5 U.S.C. 552a(j)(2) and (k)(2). This proposal would have allowed VA to exempt a new Privacy Act system of records relating to police and security records. The public comment period ended on February 18, 2003. Since VA did not receive any comments or response on the proposed rule for RIN 2900–AL33, we are now adopting this proposal as a final rule without change.

Under title 5 United States Code (U.S.C.) 552a(j)(2), the head of any agency may exempt any system of records within the agency from certain provisions of the Privacy Act, if the agency or component that maintains the system of records performs as its principal function activities pertaining to the enforcement of criminal laws. The function of the Office of Security and Law Enforcement's Police and Security Service is to provide for the maintenance of law and order and the protection of persons and property on VA property.

The system of records ''Police and Security Records—VA (103VA07B)'' was created in major part to support the criminal law related activities assigned to the Police and Security Service under the authority of 38 U.S.C. 901. These activities constitute the principal function of this staff. In addition to the principal functions pertaining to the enforcement of criminal laws, the Police and Security Service may receive and investigate complaints or information from various sources concerning the possible existence of activities constituting non-criminal violations of law, rules or regulations or substantial and specific danger to public safety.

Based upon the foregoing, VA exempts this system of records to the extent that it encompasses information pertaining to criminal law related activities from the following provisions of the Privacy Act of 1974, as permitted by 5 U.S.C. 552a(j)(2):

5 U.S.C. 552a(c)(3) and (4)
5 U.S.C. 552a(d)
5 U.S.C. 552a(e)(1), (2) and (3)
5 U.S.C. 552a(e)(4)(G), (H) and (I)
5 U.S.C. 552a(e)(5) and (8)
5 U.S.C. 552a(f)
5 U.S.C. 552a(g)

Also, VA exempts this system of records to the extent that it does not encompass information pertaining to criminal law related activities under 5 U.S.C. 552a(j)(2) from the following provisions of the Privacy Act of 1974 as permitted by 5 U.S.C. 552a(k)(2):

5 U.S.C. 552a(c) (3)
5 U.S.C. 552a(d)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4)(G), (H) and (I)
5 U.S.C. 552a(f)

The exemption of information and material in this system of records is necessary in order to accomplish the law enforcement functions of the Police and Security Service, to prevent subjects of investigations from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information and to avoid endangering these sources and Police and Security personnel.

Based on the rationale set forth in the proposed rule, we now adopt the proposed rule as a final rule without change.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This rule will have no consequential effect on State, local, or tribal governments.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The rule applies only to individuals. Accordingly, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

There is no Catalog of Federal Domestic Assistance number for this final rule.

List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Archives and records, Cemeteries, Claims, Courts, Flags, Freedom of information, Government contracts, Government employees, Government property, Infants and children, Inventions and patents, Parking, Penalties, Postal Service, Privacy, Reporting and recordkeeping requirements, Seals and insignia, Security measures, Wages.

Approved: May 16, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

■ For the reasons set out in the preamble, 38 CFR part 1 is amended as follows:

PART I—GENERAL

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

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. Section 1.582 is amended by adding paragraph (d) preceding the authority citation at the end of the section, to read as follows:

§ 1.582 Exemptions.

* * * * *

(d) *Exemption of Police and Security Records.* VA provides limited access to one Security and Law Enforcement System of Records, Police and Security Records—VA (103VA07B).

(1) The investigations records and reports contained in this System of Records are exempted [pursuant to 5 U.S.C. 552a(j)(2) of the Privacy Act of 1974] from Privacy Act subsections (c)(3) and (c)(4); (d); (e)(1) through (e)(3), (e)(4)(G) through (e)(4)(I), (e)(5), and (e)(8); (f); and (g); in addition, they are exempted [pursuant to 5 U.S.C. 552a(k)(2) of the Privacy Act of 1974] from Privacy Act subsections (c)(3); (d); (e)(1), (e)(4)(G) through (e)(4)(I); and (f).

(2) These records contained in the Police and Security Records—VA (103VA076B) are exempted for the following reasons:

(i) The application of Privacy Act subsection (c)(3) would alert subjects to the existence of the investigation and reveal that they are subjects of that investigation. Providing subjects with information concerning the nature of the investigation could result in alteration or destruction of evidence which is obtained from third parties, improper influencing of witnesses, and other activities that could impede or compromise the investigation.

(ii) The application of Privacy Act subsections (c)(4); (d); (e)(4)(G) and (e)(4)(H); (f); and (g) could interfere with investigative and enforcement proceedings, threaten the safety of individuals who have cooperated with authorities, constitute an unwarranted invasion of personal privacy of others, disclose the identity of confidential sources, reveal confidential information supplied by these sources, and disclose investigative techniques and procedures.

(iii) The application of Privacy Act subsection (e)(4)(I) could disclose investigative techniques and procedures and cause sources to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality. This could compromise the ability to conduct investigations and to identify, detect

and apprehend violators. Even though the agency has claimed an exemption from this particular requirement, it still plans to generally identify the categories of records and the sources of these records in this system. However, for the reason stated in paragraph (d)(2)(ii) of this section, this exemption is still being cited in the event an individual wants to know a specific source of information.

(iv) These records contained in the Police and Security Records—VA (103VA076B) are exempt from Privacy Act subsection (e)(1) because it is not possible to detect the relevance or necessity of specific information in the early stages of a criminal or other investigation. Relevance and necessity are questions of judgment and timing. What appears relevant and necessary may ultimately be determined to be unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established. In any investigation, the Office of Security and Law Enforcement may obtain information concerning violations of laws other than those within the scope of its jurisdiction. In the interest of effective law enforcement, the Office of Security and Law Enforcement should retain this information as it may aid in establishing patterns of criminal activity and provide leads for those law enforcement agencies charged with enforcing other segments of civil or criminal law.

(v) The application of Privacy Act subsection (e)(2) would impair investigations of illegal acts, violations of the rules of conduct, merit system and any other misconduct for the following reasons:

(A) In order to successfully verify a complaint, most information about a complainant or an individual under investigation must be obtained from third parties such as witnesses and informers. It is not feasible to rely upon the subject of the investigation as a source for information regarding his/her activities because of the subject's rights against self-incrimination and because of the inherent unreliability of the suspect's statements. Similarly, it is not always feasible to rely upon the complainant as a source of information regarding his/her involvement in an investigation.

(B) The subject of an investigation will be alerted to the existence of an investigation if an attempt is made to obtain information from the subject. This would afford the individual the opportunity to conceal any criminal activities to avoid apprehension.

(vi) The reasons for exempting these records in the Police and Security Records—VA (103VA07B) from Privacy Act subsection (e)(3) are as follows:

(A) The disclosure to the subject of the purposes of the investigation would provide the subject with substantial information relating to the nature of the investigation and could impede or compromise the investigation.

(B) Informing the complainant or the subject of the information required by this provision could seriously interfere with undercover activities, jeopardize the identities of undercover agents and impair their safety, and impair the successful conclusion of the investigation.

(C) Individuals may be contacted during preliminary information gathering in investigations before any individual is identified as the subject of an investigation. Informing the individual of the matters required by this provision would hinder or adversely affect any present or subsequent investigations.

(vii) Since the Privacy Act defines ''maintain'' to include the collection of information, complying with subsection (e)(5) would prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment of its collection. In gathering information during the course of an investigation, it is not always possible to make this determination prior to collecting the information. Facts are first gathered and then placed into a logical order which objectively proves or disproves criminal behavior on the part of the suspect. Material that may seem unrelated, irrelevant, incomplete, untimely, etc., may take on added meaning as an investigation progresses. The restrictions in this provision could interfere with the preparation of a complete investigative report.

(viii) The notice requirement of Privacy Act subsection (e)(8) could prematurely reveal an ongoing criminal investigation to the subject of the investigation.

* * * * *

[FR Doc. 03–14861 Filed 6–12–03; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[FRL–7511–4]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Louisiana, New Mexico, Oklahoma and Bernalillo County, NM; Negative Declarations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving negative declarations submitted by the States of Louisiana, New Mexico, Oklahoma, and the City of Albuquerque (Bernalillo County), New Mexico, which certify that there are no existing small municipal waste combustion units in Louisiana, New Mexico, and Oklahoma subject to the requirements of sections 111(d) and 129 of the Clean Air Act (CAA). EPA is also approving negative declarations submitted by the State of New Mexico and the City of Albuquerque (Bernalillo County) which certify that there are no existing hospital/medical/infectious waste incinerators subject to the requirements of sections 111(d) and 129 of the CAA. In addition, EPA is approving a negative declaration submitted by the City of Albuquerque (Bernalillo County) which certifies that there are no existing large municipal waste combustion units subject to the requirements of sections 111(d) and 129 of the CAA. Finally, EPA is approving a negative declaration submitted by the State of New Mexico which certifies that there are no existing commercial and industrial solid waste incineration units subject to the requirements of sections 111(d) and 129 of the CAA. This is a direct final action without prior notice and comment because this action is deemed noncontroversial.

DATES: This direct final rule is effective on August 12, 2003 without further notice, unless EPA receives adverse comment by July 14, 2003. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following location. Anyone wanting to examine these

documents should make an appointment with the EPA Region 6 Office at least two working days in advance.

Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2833.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth W. Boyce, Air Planning Section (6PD–L), Multimedia Planning and Permitting Division, U.S. EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, (214) 665–7259.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'', or ''our'' are used we mean the EPA.

I. What Is the Background for This Action?

Section 129 of the CAA requires us to develop new source performance standards (NSPS) and emission guidelines (EG) for each category of solid waste incineration units which includes these categories addressed in today's notice: (1) Existing large municipal waste combustion units; (2) existing hospital/medical/infectious waste incinerator units, (3) existing small municipal waste combustion units, and (4) existing commercial and industrial solid waste incinerator units. Such standards shall include emissions limitations and other requirements applicable to new units and guidelines required by section 111(d) of the CAA.

Section 111(d) of the CAA requires states to submit plans to control certain pollutants (designated pollutants) at existing facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type, and EPA has established emission guidelines for such existing sources. A designated pollutant is ''any air pollutant, emissions of which are subject to a standard of performance for new stationary sources but for which no air quality criteria has been issued, and which is not included on a list published under section 108(a) or section 112(b)(1)(A) of the CAA.'' 40 CFR 60.21(a).

Section 129(b) of the CAA also requires us to develop an EG for each category of existing solid waste incineration units. Under section 129 of the CAA, the EG is not federally enforceable. Section 129(b)(2) requires states to submit State Plans to EPA for approval. State Plans must be at least as protective as the EG, and they become Federally enforceable upon EPA approval.

Emission guidelines and compliance times for large municipal waste combustion units constructed on or before September 20, 1994, were promulgated on December 19, 1995 (60 FR 65387) at 40 CFR part 60, subpart Cb. The Federal plan was promulgated on November 12, 1998 (63 FR 63191) at 40 CFR Part 62, subpart FFF.

Emission guidelines and compliance times for hospital/medical/infectious waste incinerators constructed on or before June 20, 1996, were promulgated on September 17, 1997 (62 FR 48348) at 40 CFR part 60, subpart Ce. The Federal plan was promulgated on August 15, 2000 (65 FR 49868) at 40 CFR Part 62, subpart HHH.

Emission guidelines and compliance standards for small municipal waste combustion units constructed on or before August 30, 1999, were promulgated on December 6, 2000 (65 FR 76350) at 40 CFR part 60, subpart BBBB. The Federal plan was promulgated on January 31, 2003 (68 FR 5144) at 40 CFR part 62, subpart JJJ.

The emission guidelines and compliance times for existing commercial and industrial solid waste incineration units that commenced construction on or before November 30, 1999, were promulgated December 1, 2000 (65 FR 75338) at 40 CFR part 60, subpart DDDD. The Federal plan has not been promulgated as of the date of this notice. EPA proposed approval of the Federal plan on November 25, 2002 (67 FR 70640).

The status of our approvals of State plans for designated facilities (often referred to as ''111(d) plans'' or ''111(d)/129 plans'') is given in separate subparts in 40 CFR part 62, ''Approval and Promulgation of State Plans for Designated Facilities and Pollutants.'' The Federal plan requirements for existing solid waste incineration units are also codified in separate subparts at the end of part 62.

Procedures and requirements for development and submission of state plans for controlling designated pollutants are given in 40 CFR part 60, ''Standards of Performance for New Stationary Sources,'' subpart B, ''Adoption and Submittal of State Plans for Designated Facilities'' and in 40 CFR part 62, subpart A, ''General Provisions.'' If a State does not have any existing sources of a designated pollutant located within its boundaries, 40 CFR 62.06 provides that the State may submit a letter of certification to that effect, or negative declaration, in lieu of a plan. The negative declaration exempts the state from the requirements of 40 CFR Part 60, subpart B, for that designated facility. In the event that a designated facility is located in a State after a negative declaration has been approved by EPA, 40 CFR 62.13 requires that the Federal plan for the designated facility, as required by section 129 of the CAA and 40 CFR 62.02(g), will automatically apply to the facility.

This **Federal Register** action approves negative declarations for the following: existing large municipal waste combustion units, existing hospital/medical/infectious waste incinerators, existing small municipal waste combustion units, and existing commercial and industrial solid waste incineration units.

II. State Submittals

A. Existing Large Municipal Waste Combustion Units Negative Declaration From the City of Albuquerque (Bernalillo County), New Mexico

The City of Albuquerque (Bernalillo County) submitted a letter dated September 10, 2002 certifying there are no existing municipal waste combustion units in Bernalillo County on lands under the jurisdiction of the Albuquerque/Bernalillo County Air Quality Control Board subject to 40 CFR part 60, subpart Cb. This negative declaration meets the requirements of 40 CFR 62.06.

B. Hospital/Medical/Infectious Wastes Incinerators Negative Declarations From the State of New Mexico and the City of Albuquerque (Bernalillo County), New Mexico

The New Mexico Environment Department and the City of Albuquerque (Bernalillo County) have submitted letters certifying that there are no existing hospital/medical/infectious waste incinerators subject to 40 CFR part 62, subpart Ce, under their jurisdictions in the State of New Mexico, and Bernalillo County, New Mexico. These negative declarations meet the requirements of 40 CFR 62.06. The dates that these letters were submitted are identified in the table below.

State agency that submitted the negative declaration	Date of letter to EPA Region 6 Office
New Mexico Environment Department	September 14, 1998.

State agency that submitted the negative declaration	Date of letter to EPA Region 6 Office
City of Albuquerque Environmental Health Department	January 25, 2002.

C. Small Municipal Waste Combustion Units Negative Declarations From the States of Louisiana, New Mexico, and Oklahoma, and the City of Albuquerque (Bernalillo County), New Mexico

The Louisiana Department of Environmental Quality, the New Mexico Environment Department, the Oklahoma Department of Environmental Quality, and the City of Albuquerque (Bernalillo County) have submitted letters certifying that there are no existing small municipal waste combustion units under their jurisdictions in their respective States or in Bernalillo County, New Mexico subject to 40 CFR part 60, subpart BBBB. These negative declarations meet the requirements of 40 CFR 62.06. The dates that these letters were submitted are identified in the table below.

State agency that submitted the negative declaration	Date of letter to EPA Region 6 Office
Louisiana Department of Environmental Quality	December 20, 2002.
New Mexico Environment Department	November 13, 2001.
Oklahoma Department of Environmental Quality	October 2, 2001.
City of Albuquerque, Environmental Health Department	September 10, 2002.

D. Commercial and Industrial Solid Waste Incinerators Negative Declaration From the State of New Mexico

The New Mexico Environment Department submitted a letter dated November 13, 2001, certifying that there are no existing commercial and industrial solid waste incinerators subject to 40 CFR part 62, subpart DDDD, under its jurisdiction in the State of New Mexico (excluding tribal lands and Bernalillo County). This negative declaration meet the requirements of 40 CFR 62.06.

III. Final Action

We are approving a negative declaration submitted by the City of Albuquerque (Bernalillo County), New Mexico certifying that there are no existing municipal waste combustion units in Bernalillo County on lands under the jurisdiction of the Albuquerque/Bernalillo County Air Quality Control Board subject to 40 CFR part 60, subpart Cb.

We are approving negative declarations submitted by the New Mexico Environment Department and the City of Albuquerque Environmental Health Department certifying that there are no existing hospital/medical/infectious waste incinerators subject to 40 CFR part 60, subpart Ce.

We are also approving negative declarations submitted by the Louisiana Department of Environmental Quality, the New Mexico Environment Department, the Oklahoma Department of Environmental Quality, and the City of Albuquerque Environmental Health Department certifying that there are no existing small municipal waste combustion units subject to 40 CFR part 60, subpart BBBB, within the jurisdictions of the respective State and local agencies.

Finally, we are also approving a negative declaration submitted by the New Mexico Environment Department that there are no existing applicable commercial and industrial solid waste incineration units subject to 40 CFR part 60, subpart DDDD, under its jurisdiction in the State of New Mexico (excluding tribal lands and Bernalillo County).

If a designated facility is later found within any of the noted jurisdictions after publication of this **Federal Register** action, then the overlooked facility will become subject to the requirements of the Federal plan for that designated facility, including the compliance schedule. The Federal plan will no longer apply if we subsequently receive and approve the 111(d)/129 plan from the jurisdiction with the overlooked facility.

Since the States of Louisiana, New Mexico, and Oklahoma have not submitted a demonstration of authority over ''Indian Country,'' (as defined in 18 U.S.C. 1151) we are limiting our approval to those areas that do not constitute Indian Country. Under this definition, EPA treats as reservations, trust lands validly set aside for the use of a Tribe even if the trust lands have not been formally designated as a reservation. Any existing designated facility that may exist on ''Indian Country'' is subject to the Federal plan for the designated facility. *See* 40 CFR 62.13.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the ''Proposed Rules'' section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve these rules should relevant adverse comments be filed. This action will be effective August 12, 2003 unless EPA receives adverse written comments by July 14, 2003.

If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on August 12, 2003 and no further action will be taken on the proposed rule.

IV. Statutory and Executive Order Reviews

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to EO 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state and local declarations that rules implementing certain federal standards are unnecessary. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves state and local declarations that rules implementing certain federal standards are

unnecessary, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 12, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (See 42 U.S.C. 7607(b)(2)).

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 22, 2003.

Lawrence E. Starfield,

Deputy Regional Administrator, Region 6.

■ Part 62, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

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

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

Subpart T—Louisiana

■ 2. Subpart T is amended by adding a new undesignated center heading and a new § 62.4660 to read as follows:

Emissions From Existing Small Municipal Waste Combustion Units

§ 62.4660 Identification of sources—negative declaration.

Letter from the Louisiana Department of Environmental Quality dated December 20, 2002, certifying that there are no existing small municipal waste combustion units in the State of Louisiana subject to 40 CFR part 60, subpart BBBB.

Subpart GG—New Mexico

■ 3. Subpart GG is amended by adding a new undesignated center heading and a new § 62.7860, followed by a new undesignated center heading and a new § 62.7870, followed by a new undesignated center heading and a new § 62.7880, followed by a new undesignated center heading and a new § 62.7890 to read as follows:

Emissions From Existing Large Municipal Waste Combustion Units

§ 62.7860 Identification of sources—negative declaration.

Letter from the City of Albuquerque Air Pollution Control Division dated September 10, 2002, certifying that there are no existing municipal waste combustion units in Bernalillo County on lands under the jurisdiction of the Albuquerque/Bernalillo county Air Quality Control Board subject to 40 CFR part 60, subpart Cb.

Emissions From Existing Hospital/Medical/Infectious Wastes Incinerators

§ 62.7870 Identification of sources—negative declaration.

Letters from the New Mexico Environment Department and the City of Albuquerque Environmental Health Department dated September 14, 1998, and January 25, 2002, respectively, certifying that there are no existing Hospital/Medical/Infectious Waste Incinerators subject to 40 CFR part 60, subpart Ce, under their jurisdictions in the State of New Mexico.

Emissions From Existing Small Municipal Waste Combustion Units

§ 62.7880 Identification of sources—negative declaration.

Letters from the New Mexico Environment Department and the City of Albuquerque Environmental Health Department dated November 13, 2001, and September 10, 2002, respectively, certifying that there are no existing small municipal waste combustion units subject to 40 CFR part 60, subpart BBBB under their jurisdictions in the State of New Mexico.

Emissions From Existing Commercial and Industrial Solid Waste Incineration (CISWI) Units

§ 62.7890 Identification of sources—negative declaration.

Letters from the New Mexico Environment Department dated November 13, 2001 certifying that there are no existing commercial and industrial solid waste incinerators subject to 40 CFR part 60, subpart DDDD under its jurisdiction in the State of New Mexico (excluding tribal lands and Bernalillo County).

Subpart LL—Oklahoma

■ 4. Subpart LL is amended by adding a new undesignated center heading and a new § 62.9180 to read as follows:

Emissions From Existing Small Municipal Waste Combustion Units

§ 62.9180 Identification of sources—negative declaration.

Letter from the Oklahoma Department of Environmental Quality dated October 2, 2001, certifying that there are no existing small municipal waste combustion units subject to 40 CFR part 60, subpart BBBB, under its jurisdiction in the State of Oklahoma.

[FR Doc. 03–15007 Filed 6–12–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2003–0103; FRL–7310–8]

Imidacloprid; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of imidacloprid and its metabolites containing the 6-chloropyridinyl moiety, all expressed as the parent in or on acerola; artichoke, globe; avocado; banana (import); canistel; corn, pop, grain; corn, pop, stover; cranberry; currant; elderberry; feijoa; fruit, stone, group 12; gooseberry; huckleberry; guava; jaboticaba; juneberry; lingonberry; longan; lychee; mango; mustard, seed; okra; papaya; passionfruit; persimmon; pulasan; rambutan; salal; sapodilla; sapote, black; sapote, mamey; Spanish lime; star apple; starfruit; strawberry; vegetable, leaves of root and tuber, group 2; vegetable, legume, group 6, except soybean; vegetable, root and tuber, group 1, except sugar beet; watercress; wax jambu. EPA is also deleting certain imidacloprid tolerances that are no longer needed as result of this action. 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 June 13, 2003. Objections and requests for hearings, identified by docket ID number OPP–2003–0103, must be received on or before August 12, 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 VI. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Shaja R. Brothers, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–3194; e-mail address: brothers.shaja@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you an are agricultural producer, food manufacturer, and 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)

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–2003–0103. 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 February 5, 2003 (68 FR 5880) (FRL–7287–5) and March 5, 2003 (68 FR 10464) (FRL–7291–1) EPA issued notices 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 (PP1E6268, 1E6254, 1E6237, 1E6225, 0E6203, 2E6403, 2E6406, 2E6409, 2E6417, 2E6421, 2E6435, 2E6414, 2E6458, and 2E6506) by IR–4, 681 U.S. Highway 1 South, North Brunswick, NJ 08902–3390 and PP 0E6074 Bayer CropScience, 2 T.W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709. Those notices included summaries of the petitions prepared by Bayer CropScience, the registrant. One comment was received in response to the notice of filing of February 5, 2003, from an individual who requested that information about pesticide tolerances be available in grocery stores next to the food labels.

The petitions requested that 40 CFR 180.472 be amended by establishing tolerances for residues of the insecticide 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: Bushberry subgroup 13B, lingonberry, juneberry and salal at 3.5 parts per million (ppm) (PP 1E6268), okra at 1.0 ppm (PP 1E6254), watercress at 3.5 ppm (PP 1E6237), artichoke at 2.5 ppm (PP 1E6225), cranberry at 0.05 ppm (PP 0E6203), vegetable, legume, except soybean, group 6 at 4.0 ppm (PP 2E6403), 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 (PP 2E6406), vegetable, leaves of root and tuber, group 2 at 4.0 ppm (PP 2E6409), strawberry at 0.5 ppm (PP 2E6417), fruit, stone, group 12 at 3.0 ppm (PP 2E6421), guava, feijoa, jaboticaba, wax jambu, starfruit, passionfruit, and acerola at 1.0 ppm (PP 2E6435), corn, pop, grain at 0.05 ppm and corn, pop, stover at 0.2 ppm (PP 2E6414), mustard seed at 0.05 ppm (PP 2E6458), and vegetable, root and tuber, except sugar beet, group 1, except sugar beet, at 0.4 ppm (PP 2E6506); imported banana at 0.01 ppm (0E6074). The petition for imported banana was subsequently amended to propose a tolerance at 0.02 ppm.

EPA is also deleting several established tolerances in § 180.472(a) and § 180.472(b) that are no longer needed, as a result of this action. The tolerance deletions under § 180.472(b) are time-limited tolerances established under section 18 emergency exemptions that are superceded by the establishment of general tolerances for imidacloprid and its metabolites under § 180.472(a).

The revisions to § 180.472(a) are as follows:

1. Delete bean, edible, podded at 1.0 ppm and bean, succulent, shelled at 1.0 ppm. Replaced with vegetable, legume, group 6, except soybean at 4.0 ppm.

2. Delete dasheen, leaves at 3.5 ppm and turnip greens at 3.5 ppm. Replaced with vegetable, leaves of root and tuber, group 2 at 4.0 ppm.

3. Delete mango at 0.2 ppm. Replaced with mango at 1.0 ppm.

4. Delete potato at 0.3 ppm and vegetable, tuberous and corm, subgroup at 0.3 ppm. Replaced with vegetable, root and tuber, group 1, except sugar beet at 0.4 ppm.

The revisions to § 180.472(b) are as follows:

1. Delete the time-limited tolerance for fruit, stone at 3.0 ppm. Tolerance for fruit, stone, group 12 at 3.0 ppm is established by this action under 180.472(a).

2. Delete the time-limited tolerance for strawberry at 0.1 ppm. Tolerance for strawberry at 0.5 ppm is established by this action under 180.472(a).

3. Delete the time-limited tolerance for turnip, roots at 0.3 ppm. Tolerance for vegetable, root and tuber, group 1, except sugar beet at 0.4 ppm is established by this action under 180.472(a).

4. Delete the time-limited tolerance for turnip, tops at 3.5 ppm. Tolerance for vegetable, leaves of root and tuber, group 2 at 4.0 ppm is established by this action under 180.472(a).

EPA has received objections to a time-limited tolerance it established for residues of imidacloprid on blueberries in connection with an emergency exemption for such use under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* published in the **Federal Register** of January 18, 2002 (67 FR 2580)(FRL–6817–6). The objections were filed by the Natural Resources Defense Council (NRDC) and raised several issues regarding aggregate exposure estimates and the additional safety factor for the protection of infants and children. NRDC's objections raise complex legal, scientific, policy, and factual matters and EPA has initiated a public comment period on them in the **Federal Register** of June 19, 2002 (67 FR 41628) (FRL–7167–7), which ended on October 16, 2002. Although that proceeding remains ongoing, prior to acting on this current tolerance action, EPA reviewed the imidacloprid-specific objections raised by NRDC and has addressed them at relevant points throughout this preamble. Since EPA review of the objections to the time-limited tolerance for blueberry is ongoing, EPA is not establishing the proposed tolerance for blueberry at this time. Individual commodity tolerances for the other members of the bushberry subgroup (currant, elderberry, gooseberry and huckleberry) are established by this action.

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 tolerances for combined residues of imidacloprid on banana (import) at 0.02 ppm; cranberry; mustard, seed; corn, pop, grain at 0.05 ppm; corn, pop, stover at 0.20 ppm; vegetable, root and tuber, group 1, except sugar beet at 0.40 ppm; strawberry at 0.50 ppm; acerola; avocado; canistel; feijoa; guava; jaboticaba; mango; okra; papaya; passionfruit; sapodilla; sapote, black; sapote, mamey; star apple; starfruit; wax jambu at 1.0 ppm; artichoke, globe at 2.5 ppm; fruit, stone, group 12; lychee; longan; Spanish lime; rambutan; pulasan; persimmon at 3.0 ppm; currant; elderberry; gooseberry; huckleberry; juneberry; lingonberry; salal; watercress at 3.5 ppm; vegetable, leaves of root and tuber, group 2; vegetable, legume, group 6, except soybean at 4.0 ppm.

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 imidacloprid are discussed in Table 1 of this unit as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3200	21/28-Day dermal toxicity (rabbits)	NOAEL = 1,000 mg/kg/day (highest dose tested (HDT)) LOAEL = Not identified
870.3465	4 Week inhalation toxicity (rat)	NOAEL = 0.191 mg/liter/day (HDT) LOAEL = Not identified
870.3700	Prenatal developmental toxicity (rats)	Maternal NOAEL = 10 mg/kg/day LOAEL = 30 mg/kg/day based on decreased body weight gain and decreased corrected body weight gain. Developmental NOAEL = 30 mg/kg/day LOAEL = 100 mg/kg/day based on a slight increase in the incidence of wavy ribs.
870.3700	Prenatal developmental toxicity (rabbits)	Maternal NOAEL = 24 mg/kg/day LOAEL = 72 mg/kg/day based on maternal deaths and decreased maternal absolute body weights, body weight gains, and food consumption. Developmental NOAEL = 24 mg/kg/day LOAEL = 72 mg/kg/day based on abortion, total litter resorptions, increased postimplantation loss due to increased late resorptions, decreased fetal weights, and very low incidences of skeletal alterations.
870.3800	Reproduction and fertility effects (rats)	Parental/Systemic NOAEL = 16.5 mg/kg/day LOAEL = 47.3 mg/kg/day based on decreased premating weight gain by F0 males and females and F1 females and decreased gestational weight gain by F1 females. Reproductive NOAEL = 47.3 mg/kg/day (HDT) LOAEL = not identified Offspring NOAEL = 16.5 mg/kg/day LOAEL = 47.3 mg/kg/day based on decreased pup body weights in both litters of both generations.
870.4100	Chronic toxicity (dogs)	NOAEL = 72 mg/kg/day (HDT) LOAEL = Not identified
870.4200	Carcinogenicity (mice)	NOAEL = Males: 208 mg/kg/day; Females: 274 mg/kg/day LOAEL = Males: 414 mg/kg/day; Females: 424 mg/kg/day based on decreased body weights, food consumption and water intake. No evidence of carcinogenicity.
870.4300	Combined Chronic/Carcinogenicity (rats)	NOAEL = Males: 5.7 mg/kg/day; Females: 7.6 mg/kg/day LOAEL = Males: 16.9 mg/kg/day; Females: 24.9 mg/kg/day based on thyroid toxicity (increased incidence of mineralized particles in thyroid colloid) in males. No evidence of carcinogenicity.
870.5100 870.5300	Gene Mutation	Negative in a battery of test.
870.5375 870.5380 870.5385 870.5395 870.5900	Chromosome aberrations	Negative in battery of tests, except at cytoxic doses in an *in vitro* mammalian chromosome aberration test and an *in vitro* sister chromatid exchange test.
870.5550 870.5575	Other genotoxic effects	Negative in a battery of tests
870.6200	Acute neurotoxicity screening battery rat	NOAEL = not identified. LOAEL = 42 mg/kg based on decreased motor and locomotor activities observed in females.
870.6200	Subchronic neurotoxicity screening battery rat	NOAEL = 9.3 mg/kg/day. LOAEL = 63.3 mg/kg/day based on decreased body weight gain.
870.6300	Developmental neurotoxicity (rat)	Maternal NOAEL = 20 mg/kg/day. LOAEL = 55 mg/kg/day based on decreased food consumption and body weight gain during lactation. Offspring NOAEL = 20 mg/kg/day. LOAEL = 55 mg/kg/day based on decreased body weight and body weight gain, decreased motor activity and decreased caudate/putamen width in females.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.7485	Metabolism and pharmacokinetics rat	Methylene-labeled imidacloprid was rapidly absorbed. There were no biologically significant differences between sexes, dose levels, or route of administration. Urinary excretion was the major route of elimination, with a lesser amount eliminated in feces. Total tissue burden after 48 hours accounted for only approximately 0.5% of the recovered radioactivity, with major sites of accumulation being the liver, kidney, lung, skin, and plasma and minor sites being the brain and testes. There were two major evident routes of biotransformation. The first included an oxidative cleavage of the parent compound to give 6-CNA and its glycine conjugate. Dechlorination of this metabolite formed the 6-hydroxynicotinic acid and its mercapturic acid derivative. The second included the hydroxylation of imidazolidine followed by elimination of water of the parent compound to give NTN 35884. In a comparison between [Methylene-14C] Imidacloprid and [Imidazolidine-4,5-14C] Imidacloprid, the rates of excretion were similar; however, the renal portion was higher with the imidazolidine-labeled test material. The imidazolidine-labeled test material also demonstrated higher accumulation in the tissues, with the major sites of accumulation being the liver, kidney, lung, and skin, and the minor sites being brain and muscle.

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 intra species 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 factors (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 1×10^{-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 imidacloprid used for human risk assessment is shown in Table 2 of this unit:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR IMIDACLOPRID FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	* Special FQPA SF and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute Dietary all populations	LOAEL = 42 mg/kg/day UF = 300 Acute RfD = 0.14 mg/kg	FQPA SF = 1X aPAD = aRfD/ FQPA SF = 0.14 mg/kg	Acute neurotoxicity - rat LOAEL = 42 mg/kg, based upon the decrease in motor and locomotor activities observed in females.
Chronic Dietary all populations	NOAEL= 5.7 mg/kg/day UF = 100 Chronic RfD = 0.057 mg/kg/day	FQPA SF = 1X cPAD = cRfD/FQPA SF = 0.057 mg/kg/day	Combined chronic tox/carcinogenicity - rat LOAEL = 16.9 mg/kg/day, based upon increased incidence of mineralized particles in thyroid colloid in males.
Short-Term Oral (1–30 days)	oral study NOAEL= 10 mg/kg/day	LOC for MOE = 100 (Residential, includes the FQPA SF)	Developmental toxicity - rat Maternal LOAEL = 30 mg/kg/day, based upon decreased body weight gain and corrected body weight gain.

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR IMIDACLOPRID FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	* Special FQPA SF and Level of Concern for Risk Assessment	Study and Toxicological Effects
Intermediate-Term Oral (1–6 months)	oral study NOAEL= 9.3 mg/kg/day	LOC for MOE = 100 (Residential, includes the FQPA SF)	Subchronic neurotoxicity - rat LOAEL = 63.3 mg/kg/day, based upon decreased body weight gain.
Short-Term Dermal (1–30 days)	oral study NOAEL= 10 mg/kg/day (dermal absorption rate = 7.2%)2	LOC for MOE = 100 (Residential, includes the FQPA SF)	Developmental toxicity - rat Maternal LOAEL = 30 mg/kg/day, based upon decreased body weight gain and corrected body weight gain.
Intermediate-Term Dermal (1–6 months)	oral study NOAEL= 9.3 mg/kg/day (dermal absorption rate = 7.2%)2	LOC for MOE = 100 (Residential, includes the FQPA SF)	Subchronic neurotoxicity - rat LOAEL = 63.3 mg/kg/day, based upon decreased body weight gain.
Long-Term Dermal (> 6 months)	oral study NOAEL= 5.7 mg/kg/day (dermal absorption rate = 7.2%)2	LOC for MOE = 100 (Residential, includes the FQPA SF)	Combined chronic tox/carcinogenicity - rat LOAEL = 16.9 mg/kg/day, based upon increased incidence of mineralized particles in thyroid colloid in males.
Short-Term Inhalation (1–30 days)	oral study NOAEL= 10 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Residential, includes the FQPA SF)	Developmental toxicity - rat Maternal LOAEL = 30 mg/kg/day, based upon decreased body weight gain and corrected body weight gain.
Intermediate-Term Inhalation (1–6 months)	oral study NOAEL= 9.3 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Residential, includes the FQPA SF)	Subchronic neurotoxicity - rat LOAEL = 63.3 mg/kg/day, based upon decreased body weight gain.
Long-Term Inhalation (>6 months)	oral study NOAEL= 5.7 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Residential, includes the FQPA SF)	Combined chronic tox/carcinogenicity - rat LOAEL = 16.9 mg/kg/day, based upon increased incidence of mineralized particles in thyroid colloid in males.
Cancer (oral, dermal, inhalation)	no evidence of carcinogenicity for humans	Not applicable	No evidence of carcinogenicity in rats and mice.

* The reference to the FQPA SF refers to any additional SF retained due to concerns unique to the FQPA.

In its objections to a separate imidacloprid tolerance action, NRDC claims that EPA erred by regulating on the basis of a LOAEL for acute and chronic toxicity. As can be seen from the above table, NRDC is mistaken with regard to use of a LOAEL for estimating the RfD for chronic risk. The acute toxicity endpoint was based upon a LOAEL of 42 mg/kg/day from an acute neurotoxicity study in rats. This value was adjusted with a safety factor of 3X to approximate the value of a NOAEL. EPA has high confidence that this value of 3x is sufficient for several reasons. The effect seen at the LOAEL in the acute neurotoxicity study (decreased motor activity), occurred only in one sex of the rat (females), was characterized as minimal, and may have been a result of the use of the gavage dosing in the study. The decreased motor activity was not replicated following repeated dietary administration (non-gavage) at lower and higher doses (10, 70 or 200 mg/kg/day) in the subchronic neurotoxicity study in the same species (rats). Further, using a safety factor of 3X produces a regulatory endpoint lower than the acute effect levels in other standard studies for determining an acute endpoint, developmental toxicity studies in two species, and in another study that is on occasion used for such a purpose, the developmental neurotoxicity study in rats.

Also in these objections, NRDC claims that EPA failed to calculate residential risks for some scenarios, based on low toxicity (no endpoints were chosen). On October 8, 2002, the Health Effects Division (HED), Hazard Identification Assessment Review Committee (HIARC) reviewed the hazard database for imidacloprid and established additional endpoints. Endpoints were chosen for each of the following exposure scenarios: acute dietary, chronic dietary, short-term oral, intermediate-term oral, short-term dermal, intermediate-term dermal, long-term dermal, short-term inhalation, intermediate-term inhalation, and long-term inhalation. In the current risk assessment (Unit E of this document), EPA calculated short-term residential risks (oral, dermal, and inhalation) for both adults and children for a wide-range of representative scenarios, including applications to lawns, ornamental plantings, indoor and outdoor potted plants, and dogs and cats. Based on current residential use patterns for imidacloprid, EPA expects the duration of exposure to be short-term (1-30 days), and would not result in intermediate or long-term exposure. EPA also conducted human health aggregate risk assessments for the following exposure scenarios: acute aggregate (food + drinking water), short-term aggregate exposure (food + drinking water + residential), and chronic aggregate exposure (food + drinking water).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been

established (40 CFR 180.472) for the combined residues of imidacloprid, in or on a variety of raw agricultural commodities. Meat, milk, poultry and egg tolerances have also been established for the combined residues of imidacloprid. In conducting dietary exposure assessments EPA used the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM-FCID^T) which incorporates food consumption data as reported by respondents in the USDA [1994-1996 and 1998] nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The 1994-96 and 1998 data are based on the reported consumption of more than 20,000 individuals over two non-consecutive survey days. Consumption data are averaged for the entire U.S. population and within population subgroups for chronic exposure assessment, but are retained as individual consumption events for acute exposure assessment. Risk assessments were conducted by EPA to assess dietary exposures from imidacloprid 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 [1994–1996/1998] 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: A Tier 1, deterministic acute dietary exposure assessment was conducted using tolerance-level residues, 100% crop treated (CT) information for registered and proposed commodities; and modified DEEMTM (version 7.76) processing factors for some commodities based on guideline processing studies. EPA estimated exposure based on the 95th percentile value from this deterministic exposure assessment.

In its objections to a separate imidacloprid tolerance action, NRDC asserts that EPA erred by relying on the exposure value for the 95th percentile of the population in estimating exposure. NRDC claims that this approach leaves 5 percent of the population unprotected. These comments by NRDC represent a misunderstanding of EPA's exposure assessments. Although EPA estimated exposure using the 95th percentile, EPA most definitely was not, however, acting in a manner designed to protect only 95 percent of the population. To the contrary, EPA's exposure estimates were designed to reasonably capture the full range of exposures in each population subgroup.

As explained in its science policy paper on this subject, EPA, in estimating exposure for population subgroups, generally considers various population percentiles of exposure between 95 and 99.99, depending on the extent of overestimation in the residue data used in the assessment. In each exposure assessment EPA is attempting to reasonably estimate the full range of exposures in a subgroup. Accordingly, as EPA noted in its policy paper, just as when OPP uses the 95th percentile with non-probabilistic exposure assessments OPP is not suggesting that OPP is leaving 5 percent of the population unprotected, OPP is not by choosing the 99.9th percentile for probabilistic exposure assessments concluding that only 99.9 percent of the population deserves protection. Rather, it is OPP's view that, with probabilistic assessments, the use of the 99.9th percentile generally produces a reasonable high-end exposure such that if that exposure does not exceed the safe level, OPP can conclude there is a reasonable certainty of no harm to the general population and all significant population groups. (Office of Pesticide Programs, EPA, *Choosing a Percentile of Acute Dietary Exposure as a Threshold of Regulatory Concern* 31 (March 22, 2000)). Importantly, EPA generally uses a population percentile of 95 when EPA relies on worst case residue values - i.e., all crops covered by the tolerance contain residues at the tolerance value. Even at the 95th percentile of estimated exposure, actual exposure, when based on this assumption tends to be significantly overstated. For example, EPA has found that when it uses realistic residue information (e.g., data from monitoring of the food supply), that exposure estimates are generally substantially lower even at the 99.99th percentile.

As noted above, EPA did use the worst case assumption that all food covered by imidacloprid tolerances would bear residues at the tolerance level. Hence, EPA believes its exposure estimate is unlikely to understate exposure; rather, in all likelihood, the estimate probably substantially overstates exposure.

ii. *Chronic exposure*. The following assumptions were made for the chronic exposure assessments: The chronic dietary exposure assessment was performed using published and proposed tolerance levels, DEEM default processing factors, and percent crop treated information on some commodities.

iii. *Cancer*. A quantitative cancer aggregate risk assessment was not performed because imidacloprid is not carcinogenic.

Section 408(b)(2)(F) of the FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of percent CT as required by section 408(b)(2)(F) of the FFDCA, EPA may require registrants to submit data on percent CT.

The Agency used CT information as follows:

For the acute assessment, 100% CT was assumed for all registered and proposed commodities. For the chronic assessment, average weighted percent CT information was used for the following commodities: Apple 34%; brussels sprouts 56%; broccoli 35%; cabbage 14%; cantaloupe 31%; cauliflower 52%; collards 10%; corn, field 1%; cotton 3%; cucumber 2%; eggplant 36%; grapefruit 3%; grape 32%; mustard greens16%; honeydew 26%; kale 30%; lemon 1%; lettuce, head 49%; lime 5%; orange 1%; pear 16%; pepper 62%; pumpkin 7%; spinach 15%; squash 7%; sugarbeet 1%; tangerine 9%; tomato 9%; watermelon 6%; wheat 1%. A default value of 1% was used for all commodities which were reported as having <1% CT.

The Agency believes that the three conditions listed in Unit. III.E. have been met. With respect to Condition 1, percent CT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average percent CT for chronic dietary exposure estimates. This weighted average percent CT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the percent CT reasonably represents a person's dietary exposure

over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average percent CT over a lifetime. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which imidacloprid may be applied in a particular area.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for imidacloprid 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 imidacloprid.

The Agency uses the FQPA Index Reservoir Screening Tool (FIRST) or the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS), to produce estimates of pesticide concentrations in an index reservoir. The SCI-GROW model is used to predict pesticide concentrations in shallow groundwater. For a screening-level assessment for surface water EPA will use FIRST (a tier 1 model) before using PRZM/EXAMS (a tier 2 model). The FIRST model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. FIRST and PRZM/EXAMS incorporate an index reservoir environment, and include 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 screen for sorting out pesticides for which it is unlikely that drinking water concentrations would 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 %RfD or %PAD. 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 imidacloprid they are further discussed in the aggregate risk sections in Unit.III.E.

Analysis of monitoring data for degradates (ground water only) shows that imidacloprid parent is the dominant residue with imidacloprid urea the most likely degradate. Based on the available information, modeling of total residue results in only modest increases over the exposure estimates with parent alone. Based on the FIRST and SCI-GROW models the estimated environmental concentrations (EECs) of imidacloprid (total residue) for acute exposures are estimated to be 36.04 parts per billion (ppb) for surface water and 2.09 ppb for ground water. The EECs for imidacloprid (parent only) for acute exposures are estimated to be 35.89 parts per billion (ppb) for surface water and 1.43 ppb for ground water. The EECs for imidacloprid (total residue) for chronic exposures are estimated to be 17.24 ppb for surface water and 2.09 ppb for ground water. The EECs for imidacloprid (parent only) for chronic exposures are estimated to be 16.52 ppb for surface water and 1.43 ppb for ground water.

The New York State Department of Environmental Conservation, Division of Solid and Hazardous Materials has submitted extensive water monitoring information from Nassau and Suffolk Counties of New York. Nassau and Suffolk counties have ground water that is exceptionally vulnerable to pesticide contamination and have a long history of a number of pesticides being banned from use in these counties over the years. In general, the kinds of concentrations of imidacloprid (parent only) found in the monitoring/observation and private drinking water wells are in the range expected in highly vulnerable ground water. Imidacloprid has been detected in approximately 20 (including some clusters of wells in the same immediate area) out of about 2,000 public and private water supply and monitoring wells. Imidacloprid was detected in 24 of the approximately 3,500 well samples analyzed for imidacloprid in Nassau and Suffolk Counties. Although detection of imidacloprid in about 20 of 2,000 wells in an area with highly vulnerable ground water does not demonstrate particularly widespread ground water contamination, 3 of 2000 wells in this highly vulnerable ground water have at least one detection greater than the SCI-GROW groundwater screening concentration for imidacloprid (parent only) at 1.43 ppb. The three samples that exceed the SCI-GROW groundwater ECs are reported at 2.06 ppb, 5.98, ppb and 6.69 ppb. Since the surface water model screening levels are greater than the ground water model screening levels and the detection levels reported from the water monitoring from Nassau and Suffolk Counties, New York, the Agency will use the surface water ECs for imidacloprid total residue as a worse case estimate for drinking water in the aggregate risk assessment.

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).

Imidacloprid is currently registered for use on the following residential non-dietary sites: Granular products for application to lawns and ornamental plants; ready-to-use spray for application to flowers, shrubs and house plants; plant spikes for application to indoor and outdoor residential potted plants; ready-to-use potting medium for indoor and outdoor plant containers; liquid concentrate for application to lawns, trees, shrubs and flowers; ready-to-use liquid for directed spot application to cats and dogs. In addition, there are numerous registered products intended for use by commercial applicators to residential sites. These include gel baits for cockroach control; products intended for commercial ornamental, lawn and turf pest control; products for ant control; and products used as preservatives for wood products, building materials, textiles and plastics.

As these products are intended for use by commercial applicators only, they are not be addressed in terms of residential pesticide handler. The risk assessment was conducted using the following residential exposure assumptions: EPA has determined that residential handlers are likely to be exposed to imidacloprid residues via dermal and inhalation routes during handling, mixing, loading, and applying activities. Based on the current use patterns, EPA expects duration of exposure to be short-term (1-30 days). EPA does not expect imidacloprid to result in exposure durations that would result in intermediate- or long-term exposure.

The scenarios likely to result in adult dermal and/or inhalation residential handler exposures are as follows:

Dermal and inhalation exposure from using a granular push-type spreader.

Dermal exposure from using potted plant spikes.

Dermal exposure from using a plant potting medium.

Dermal and inhalation exposure from using a garden hose-end sprayer (dermal and inhalation exposure from using a RTU trigger pump spray is expected to be negligible).

Dermal and inhalation exposure from using a water can/bucket for soil drench applications.

Dermal exposure from using pet spot-on.

EPA has also determined that there is potential for short-term (1 to 30 days), post-application exposure to adults and children/toddlers from the many residential uses of imidacloprid. Due to residential application practices and the half-lives observed in the turf transferable residue study, intermediate- and long-term post-application exposures are not expected. The scenarios likely to result in dermal (adult and child/toddler), and incidental non-dietary (child/toddler) short-term post-application exposures are as follows:

Toddler oral hand-to-mouth exposure from contacting treated turf.

Toddler incidental oral ingestion of granules.

Toddler incidental oral ingestion of pesticide-treated soil.

Toddler incidental oral exposure from contacting treated pet.

Toddler dermal exposure from contacting treated turf.

Toddler dermal exposure from hugging treated pet/contacting treated pet.

Adult dermal exposure from contacting treated turf.

Adult golfer dermal exposure from contacting treated turf.

Adolescent golfer dermal exposure from contacting treated turf.

Adult dermal exposure from contacting treated pet]

4. *Cumulative effects from 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 imidacloprid has a common mechanism of toxicity with other substances. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to imidacloprid and any other substances and imidacloprid 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 imidacloprid 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 policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at http://www.epa.gov/pesticides/cumulative/.

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 quantitative or qualitative evidence of increased susceptibility of rat and rabbit fetuses to in utero exposure in developmental studies. There is no quantitative or qualitative evidence of increased susceptibility of rat offspring in the multi-generation reproduction study. There is evidence of increased qualitative susceptibility in the rat developmental neurotoxicity study, but the concern is low since:

i. The effects in pups are well-characterized with a clear NOAEL;

ii. The pup effects occur in the presence of maternal toxicity with the same NOAEL for effects in pups and dams; and,

iii. The doses and endpoints selected for regulatory purposes are protective of the pup effects noted at higher doses in the developmental neurotoxicity study. Therefore, there are no residual uncertainties for pre-/post-natal toxicity in this study.

3. *Conclusion*. There is a complete toxicity data base for imidacloprid and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X SF to protect infants and children should be reduced to 1X for the following reasons:

The toxicological database is complete for FQPA assessment.

The acute dietary food exposure assessment utilizes existing and proposed tolerance level residues and 100% CT information for all commodities. By using these screening-level assessments, actual exposures/risks will not be underestimated.

The chronic dietary food exposure assessment utilizes existing and proposed tolerance level residues and % CT data verified by the Agency for several existing uses. For all proposed uses, 100% CT is assumed. The chronic assessment is somewhat refined and based on reliable data and will not underestimate exposure/risk.

The dietary drinking water assessment utilizes water concentration values generated by model and associated modeling parameters which are designed to provide conservative, health protective, high-end estimates of water concentrations which will not likely be exceeded.

The residential handler assessment is based upon the residential standard operating procedures (SOPs) in conjunction with chemical-specific study data in some cases and the Pesticide Handlers Exposure Database (PHED) unit exposures in other cases. The majority of the residential post-application assessment is based upon chemical-specific turf transferrable residue data or other chemical-specific post-application exposure study data. The chemical-specific study data as well as the surrogate study data used are reliable and also are not expected to

underestimate risk to adults as well as to children. In a few cases where chemical-specific data were not available, the SOPs were used alone. The residential SOPs are based upon reasonable worst-case assumptions and are not expected to underestimate risk. These assessments of exposure are not likely to underestimate the resulting estimates of risk from exposure to imidacloprid.

In its objections to a separate imidacloprid tolerance action, NRDC argues that in light of the outstanding data requirement for prospective groundwater monitoring studies, EPA should have retained a 10X FQPA factor for imidacloprid. EPA disagrees. Two small- scale prospective ground-water monitoring studies were originally requested by the Agency in 1994. This request predates the development of the Tier 1 ground-water screening model in 1997 and the Food Quality Protection Act of 1996. The field phase of these prospective ground-water monitoring studies commenced in 1996. Results from these studies have now been received and the levels of imidacloprid observed (0.1 ppb) are below the screening concentration of 2.09 ppb calculated on the basis of the SCI-GROW, the Tier 1 ground-water screening model. In any event, as noted above, since higher values are predicted for imidacloprid residues in surface water, these higher values were used in conducting the risk assessment.

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 Office of Water 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, OPP concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP 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, OPP 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 imidacloprid will occupy 25% of the aPAD for the U.S. population, 17% of the aPAD for females 13 to 49 years, 54% of the aPAD for infants < 1 year old and 64% of the aPAD for children 1-2 years. In addition, there is potential for acute dietary exposure to imidacloprid 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 IMIDACLOPRID

Population Subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
U.S. Population	0.14	25	36.04	2.09	3,700
Females 13–49 years	0.14	17	36.04	2.09	3,500
Infants <1 year	0.14	54	36.04	2.09	650
Children 1–2 years	0.14	64	36.04	2.09	510

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to imidacloprid from food will utilize 11% of the cPAD for the U.S. population, 26% of the cPAD for infants < 1 year and 35% of the cPAD for children 1-2 years. Based the use pattern, chronic residential exposure to residues of imidacloprid is not expected. In addition, there is potential for chronic dietary exposure to imidacloprid 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 IMIDACLOPRID

Population Subgroup	cPAD mg/kg/day	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.057	11	17.24	2.09	1,800
Infants <1 year	0.057	26	17.24	2.09	420
Children 1-2 years	0.057	35	17.24	2.09	370
Females 13-49 years	0.057	8.3	17.24	20.9	1,600

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Short-term aggregate risk assessments are needed for adults as there is potential for both dermal and inhalation handler exposure, and dermal post-application exposure from the residential uses of imidacloprid on turf and pets. In addition, short-term aggregate risk assessments are needed for children/toddlers because there is a potential for oral and dermal, post-application exposure resulting from the residential uses of imidacloprid on turf and pets. The pet-treatment scenario resulted in the lowest combined MOE for adults (MOE = 400; handler and post-application) and children (MOE = 260; post-application). The turf-treatment resulted in much lower exposures for both adults (MOE = 15,000; handler and post-application) and children (MOE = 1,500; post-application). Therefore, the pet-treatment exposure estimates were aggregated with the chronic dietary (food) to provide a worst-case estimate of short-term aggregate risk for the U.S. population and children 1-2 years old (the child population subgroup with the highest estimated chronic dietary food exposure).

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 320 for the U.S. population, and 170 for children 1-2 years. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of imidacloprid in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in Table 5 of this unit:

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO IMIDACLOPRID

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Short-Term DWLOC (ppb)
U.S. Population	320	100	17.24	2.09	2,400
Children 1-2 years old	170	100	17.24	2.09	410

4. *Aggregate cancer risk for U.S. population*. There is no evidence of carcinogenicity to humans based on carcinogenicity studies in male and female rats and mice. The Agency concludes that pesticidal uses of imidacloprid are not likely to pose a cancer risk to humans.

5. *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 imidacloprid residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methods are available for determination of imidacloprid residues of concern in plant (Bayer Gas Chromatography/Mass Spectrometry (GC/MS) Method 00200) and livestock commodities (Bayer GC/MS Method 00191). These methods have undergone successful EPA petition method validations (PMVs), and the registrant has fulfilled the remaining requirements for additional raw data, method validation, independent laboratory validation (ILV), and an acceptable confirmatory method (high performance liquid chromatography/ultraviolet (HPLC/UV) Method 00357). The methods may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are no established Codex maximum residue limits (MRLs) for imidacloprid in/on the commodities in the subject petitions. There are currently Canadian and Mexican MRLs for imidacloprid and metabolites containing the 6-chloropicolyl moiety in potatoes at 0.3 ppm. The Mexican and Canadian MRLs are not equivalent to the US-recommended tolerance level. Therefore, harmonization is not possible at this time.

V. Conclusion

Therefore, the tolerances are established for combined residues of imidacloprid, its metabolites containing the 6-chloropyridinyl moiety, all expressed as the parent, in or on banana (import) at 0.02 ppm; cranberry; mustard, seed; corn, pop, grain at 0.05 ppm; corn, pop, stover at 0.20 ppm; vegetable, root and tuber, group 1, except sugar beet at 0.40 ppm; strawberry at 0.50 ppm; acerola; avocado; canistel; feijoa; guava; jaboticaba; mango; okra; papaya; passionfruit; sapodilla; sapote, black; sapote, mamey; star apple; starfruit; wax

jambu at 1.0 ppm; artichoke, globe at 2.5 ppm; fruit, stone, group 12; lychee; longan; Spanish lime; rambutan; pulasan; persimmon at 3.0 ppm; currant; elderberry; gooseberry; huckleberry; juneberry; lingonberry; salal; watercress at 3.5 ppm; vegetable, leaves of root and tuber, group 2; vegetable, legume, group 6, except soybean at 4.0 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–2003–0103 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 August 12, 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–2003–0103, 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. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of 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: June 2, 2003.

Debra Edwards,

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 180.472 is amended:

i. In paragraph (a), in the table, by removing the commodities, ''bean, edible, podded,'' '' bean, succulent, shelled,'' ''dasheen, leaves,'' ''mango,'' ''potato,'' ''turnip, greens,'' and ''vegetable, tuberous and corm, subgroup;'' and by alphabetically adding the following commodities.

ii. In paragraph (b), in the table, by removing the commodities, ''fruit, stone,'' ''strawberry,'' ''turnip, roots,'' and ''turnip, tops.''

The additions read as follows:

§ 180.472 Imidacloprid; tolerances for residues.

(a) * * *

Commodity	Parts per million
Acerola	1.0
* * * * *	
Artichoke, globe	2.5
Avocado	1.0
Bananna[1]	0.02
* * * * *	
Canistel	1.0
* * * * *	
Corn, pop, grain	0.05
Corn, pop, stover	0.20
* * * * *	
Cranberry	0.05
Currant	3.5
* * * * *	
Elderberry	3.5
* * * * *	
Feijoa	1.0
* * * * *	
Fruit, stone, group 12	3.0
Gooseberry	3.5
* * * * *	
Guava	1.0
* * * * *	
Huckleberry	3.5
Jaboticaba	1.0
Juneberry	3.5
* * * * *	
Lingonberry	3.5
Longan	3.0
Lychee	3.0
Mango	1.0
* * * * *	
Mustard, seed	0.05
Okra	1.0
Passionfruit	1.0
Papaya	1.0
* * * * *	
Persimmon	3.0
* * * * *	
Pulasan	3.0
Rambutan	3.0
Salal	3.5
Sapodilla	1.0
Sapote, black	1.0
Sapote, mamey	1.0
* * * * *	
Spanish lime	3.0
Star apple	1.0
Starfruit	1.0
Strawberry	0.50
* * * * *	
Vegetable, leaves of root and tuber, group 2	4.0
Vegetable, legume, except soybean, group 6	4.0

Commodity	Parts per million
Vegetable, root and tuber, group 1, except sugar beet	0.40
* * * * *	
Watercress	3.5
Wax jambu	1.0
* * * * *	

[1] There are no U.S. registration as of June 13, 2003 for use on banana.

* * * * *

[FR Doc. 03–14880 Filed 6–12–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 725

[OPPT–2002–0041; FRL–7200–3]

RIN 2070–AD43

Burkholderia Cepacia Complex; Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for *Burkholderia cepacia* complex (Bcc), a group of naturally-occurring microorganisms. Bcc microorganisms, when encountered in sufficient numbers through an appropriate route of exposure by a member of a sensitive population, such as a cystic fibrosis (CF) patient, have the potential to cause a severe infection, resulting in significantly increased rates of mortality. This rule would require persons who intend to manufacture, import, or process any individual member of Bcc for a significant new use to notify EPA at least 90 days before commencing the manufacturing (including import) or processing of Bcc for a use designated by this SNUR as a significant new use. The required notice would provide EPA with the opportunity to evaluate the intended new use and associated activities and, if necessary, to prohibit or limit that activity before it occurs.

DATES: This final rule is effective on August 12, 2003.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: James Alwood, Chemical Control Division, Office of Pollution Prevention and Toxics (7405M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8974; e-mail address: alwood.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture (including import), process, or use products that contain living microorganisms subject to jurisdiction under TSCA, especially if you know that your products contain or may contain members of Bcc. Potentially affected entities may include, but are not limited to:

- Chemical manufacturers (NAICS 325), e.g., Persons manufacturing, importing, or processing products for commercial purposes containing Bcc for biofertilizers; biosensors; biotechnology reagents; commodity or specialty chemical production; energy applications; and other TSCA uses.
- Waste management and remediation (NAICS 562), e.g., Waste treatment or pollutant degradation.

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 list of substances excluded by TSCA section (3)(2)(B), and the applicability provisions in 40 CFR 725.105(c) for SNUR related obligations. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPPT–2002–0041. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566–0280.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/. The OPPTS harmonized test guideline referenced in this document is available at http:/www.epa.gov/opptsfrs/home/guidelin.htm. A frequently updated electronic version of 40 CFR part 725 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr725_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 identification number.

II. Background

A. What Action is the Agency Taking?

This SNUR will require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of any member of Bcc, a group of naturally occurring microorganisms, for any use other than research and development in the degradation of chemicals via injection into subsurface groundwater.

B. What is the Agency's Authority for Taking this Action?

TSCA section 5(a)(2) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' See also, 40 CFR part 725, subparts L–M. EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2) of TSCA. Section 5(a)(2) of TSCA lists the following as potentially relevant factors for EPA to consider:

(A) the projected volume of manufacturing and processing of a chemical substance,

(B) the extent to which a use changes the type or form of exposure to human beings or the environment to a chemical substance,

(C) the extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance, and

(D) the reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

Once EPA promulgates a rule designating ''significant new uses'' for a given chemical substance, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. The mechanism for reporting under this requirement is established under 40 CFR 725.105(c).

EPA has interpreted the TSCA section 3(2) definition of ''chemical substance '' as authorizing EPA to regulate microorganisms under TSCA. See the **Federal Register** of April 11, 1997 (62 FR 17910 and 17913) (FRL–5577–2). Microorganisms that are not intergeneric are implicitly included on the TSCA Inventory, which would include naturally-occurring microorganisms such as Bcc (40 CFR 725.8(b)). Thus, such microorganisms are only subject to TSCA section 5 notification requirements upon promulgation of a SNUR, pursuant to TSCA section 5(a)(2).

C. Which General Provisions Apply?

General provisions for SNURs appear under subpart L of 40 CFR part 725. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the final rule. Provisions relating to user fees appear at 40 CFR part 700. Persons subject to this SNUR must comply with the same notice requirements and EPA regulatory procedures as submitters of Microbial Commercial Activity Notices (MCANs) or TSCA Experimental Release Applications(TERAs) under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the conditions necessary to qualify for the exemptions under TSCA section 5(h)(1), (h)(2), (h)(3), and (h)(5), as codified in the regulations at 40 CFR part 725. In contrast to the provisions of 40 CFR part 721, under 40 CFR part 725, EPA has adopted a narrow interpretation of the TSCA section 5(h)(3) exemption for small quantities used in research. Under 40 CFR 725.3, EPA has defined small quantities solely for research and development as ''quantities of a microorganism manufactured, imported, or processed or proposed to be manufactured, imported, or processed solely for research and development that meet the requirements of § 725.234.'' Any other research and development activity of a microorganism subject to a SNUR must comply with the section 5(a)(1)(A) notification requirements unless that activity has been excluded from coverage under the SNUR. See 40 CFR 725.3, subparts E and F of 40 CFR part 725, and the **Federal Register** of April 11, 1997 (62 FR 17921–17926).

Once EPA receives an MCAN or TERA, EPA may take regulatory action under TSCA section 5(e), 5(f), 6, or 7 to control the activities on which it has received the MCAN or TERA. If EPA does not take action, EPA is required under TSCA section 5(g) to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret TSCA section 12(b) appear at 40 CFR part 707. Persons who intend to import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28. Such persons must certify that they are in compliance with SNUR requirements. The EPA policy addressing the import certification appears at 40 CFR part 707.

III. Summary of the Final Rule

A. Final Rule

On July 31, 2001, the Cystic Fibrosis Foundation (CFF) submitted a petition under section 21 of TSCA which requested EPA to ''establish regulations prohibiting the manufacture, processing, distribution in commerce, use, and improper disposal of bacterial species within the *Burkholderia cepacia* complex.'' On November 6, 2001 (66 FR 56105) (FRL–6808–7), EPA published in the **Federal Register** a notice denying that petition. EPA also stated in the notice that it intended to issue a SNUR for Bcc. On January 9, 2002 (67 FR 1179) (FRL–6809–2) EPA proposed a SNUR for Bcc, where the significant new use for Bcc was designated as any use other than research and development in the degradation of chemicals via injection into subsurface groundwater. EPA received comments regarding the proposed SNUR only from CFF. EPA's response to those comments is contained in the next paragraph. No one identified any other ongoing commercial uses of Bcc other than those identified by EPA. In addition, no new data were submitted or identified that would change EPA's findings regarding the SNUR for Bcc. Therefore, EPA is issuing the SNUR as proposed. This final rule requires persons who intend to manufacture, import, or process Bcc for any use other than research and development in the degradation of chemicals via injection into subsurface groundwater notify EPA at least 90 days before commencing such activity.

B. Response to Comments

As noted earlier, the only comments submitted on the proposed SNUR were from CFF. CFF did not challenge or object to any of the provisions proposed by the Agency in the proposed SNUR, but instead suggested that the final rule should be expanded beyond what was proposed in two ways. First, CFF stated that EPA should designate as a significant new use all research and development activities that result in potential environmental release of Bcc. Second, CFF stated that EPA should require manufacturers of microoganisms that may contain Bcc to test their products for the presence of Bcc. Leaving aside the fact that these comments go beyond the scope of the proposed SNUR, the changes proposed by CFF are not appropriate for inclusion in a Significant New Use Rule under section 5 of TSCA.

As to CFF's first comment, CFF asks the Agency to require notification even for ''research and development in the degradation of chemicals via injection into subsurface groundwater.'' In the proposed SNUR, EPA identified ''research and development in the degradation of chemicals via injection into subsurface groundwater'' as an existing use. CFF did not present any information to suggest that this particular use is not an existing use, or that new research and development activities would be significantly different in kind or quantity than existing activities. Under the

circumstances, the Agency continues to believe that the particular research and development activities excluded from the proposed SNUR constitute an ongoing use of Bcc, and therefore do not constitute a ''significant new use'' for purposes of section 5(a)(2) of TSCA. Only significant new uses may be included in a Significant New Use Rule.

As to CFF's request that the SNUR require manufacturers of microorganisms to test their products to determine whether they contain Bcc. EPA concurs that manufacturers of microorganisms are responsible for knowing whether their products contain Bcc and EPA encourages manufacturers to test their products if they are uncertain whether the products contain Bcc. EPA's regulations exempt ''chemical'' impurities from SNUR reporting requirements (40 CFR 721.45(d)), but those regulations do not provide a similar exemption for ''microorganisms'' produced as impurities (see 40 CFR 725.912). When this SNUR becomes a final effective rule, all commercial uses of Bcc, except research and development in the degradation of chemicals via injection into subsurface groundwater, will require notification to EPA at least 90 days before commencing the manufacturing (including import) or processing of Bcc. Any manufacturer, importer, or processor of microorganisms that actually contain Bcc, even if the Bcc is present unintentionally as an impurity, will be required to submit a notification before commencing activities subject to this final SNUR. However, the Agency does not believe that a requirement to test products is appropriate for inclusion in a SNUR under section 5 of TSCA.

If a manufacturer, importer, or processor does decide to test its products, the Agency encourages conformity with OPPTS Product Analysis Test Guideline 885.1100 for product identity. Because identification of members of the Bcc may be difficult due to complexities of the taxonomy of this group, EPA believes it advisable to consult experts in this matter prior to testing. EPA encourages any manufacturer, importer, or processor considering such testing to consult the Agency for further guidance or questions.

IV. Objectives and Rationale of the Rule

In determining what would constitute a significant new use for the microorganisms that are the subject of this SNUR, EPA considered relevant information on the toxicity of the microorganisms, likely exposures associated with potential uses, information provided by industry sources, and the relevant factors listed in TSCA section 5(a)(2) and Unit II.B. Based on these considerations, EPA has determined that all uses other than research and development in the degradation of chemicals via injection into subsurface groundwater, are significant new uses.

EPA's considerations under each of the relevant factors are discussed below:

1. *Projected volume of manufacturing and processing of a chemical substance.* At present there is little manufacturing and processing of Bcc, so almost all exposure to Bcc today is from its presence in the natural environment. Any new use of Bcc could result in a significant increase in manufacturing and processing of the compound, and of exposure to it. Microorganisms may reproduce and increase beyond the number initially introduced and may spread beyond the site of manufacture or processing. Thus, what begins as a small localized population of microorganisms may become a large widespread population which could contribute to increased exposure potential for Bcc beyond that which occurs naturally. These facts complicate the Agency's ability to project the potential volume and processing of Bcc. However, Bcc is typically found in the environment in soils at a concentration of 10^2 to 10^4 colony forming units (cfu)/g. Manufacture of Bcc would result in production of batches of 10^{16} cfu of Bcc. Depending on the type and duration of use these batches could be even larger. (See Reference 16, 67 FR 1185, January 9, 2002 (FRL–6809–2))

2. *Extent to which a use changes the type or form of exposure to human beings or the environment to a chemical substance.* Currently, human beings are exposed to Bcc because of its presence in soil, where it is found at concentrations significantly lower than might be seen if it is cultivated for commercial use. In addition to the fact that these uses would likely involve much higher concentrations of Bcc than are naturally found in the environment, some of the potential uses identified for Bcc, including bioremediation (degradation of toxic chemicals), degradation of grease in drains, turf management, and specialty chemicals production, could also significantly increase direct dermal and inhalation exposures of Bcc to human beings and release of Bcc to the environment. (See Reference 16, 67 FR 1185, January 9, 2002). This would be especially true for individuals involved directly in or near the manufacturing or application of formulations containing Bcc. These are types and forms of exposures to which human beings and the environment are exposed on a limited basis during field studies of Bcc in the biodegradation of chlorinated solvents in groundwater.

3. *Extent to which a use changes the magnitude and duration of exposure to human beings or the environment to a chemical substance.* Currently, human beings are exposed to Bcc because of its presence in soil, where it is found at concentrations significantly lower than might be seen if it is cultivated for commercial use. In addition to the fact that these uses would likely involve much higher concentrations of Bcc than are naturally found in the environment, some of the potential uses identified for Bcc, including bioremediation (degradation of toxic chemicals), degradation of grease in drains, turf management, and specialty chemicals production, could also significantly increase direct dermal and inhalation exposures of Bcc to human beings and release of Bcc to the environment. Releases from typical manufacturing could result in releases to surface waters of 10^9 to 10^{13} cfu in water and 10^5 cfu in the air. Inhalation exposures of 450 cfu and dermal exposures of 10^{11} cfu to exposed workers could also result from typical manufacturing. (See Reference 16, 67 FR 1185, January 9, 2002) Exposures from various uses would be the same or higher depending on the method of application. For example, if spray-applied, the potential for inhalation exposure would be higher due to potential inhalation of mist. All Bcc produced for uses such as bioremediation (degradation of toxic chemicals), degradation of grease in drains, and turf management would eventually be released to the environment. New uses could also significantly increase the duration of exposure. Use in bioremediation for research and development could be limited to a few days/yr. In instances where manufacturing and application of formulations containing Bcc are repeated or continuous this increased level of exposure could occur on a daily basis throughout the year. In addition, repeated or continuous applications of formulations containing Bcc at the same location would increase the likelihood that a small localized population could become a larger and more widespread population. All of these factors would contribute to a change in the magnitude and duration of exposure to which human beings and the environment are not currently exposed.

4. *The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.* EPA has not currently identified any

general commercial use of Bcc. EPA has identified field studies of Bcc in the biodegradation of chlorinated solvents in groundwater. (See Reference 15, 67 FR 1185, January 9, 2002) EPA expects only limited exposures from the identified field studies of Bcc as only technically qualified individuals are growing and injecting Bcc directly into groundwater. Other potential uses identified for Bcc which include bioremediation (degradation of toxic chemicals), degradation of grease in drains, turf management, and specialty chemicals production, could significantly increase dermal and inhalation exposures of Bcc to human beings as well as releases to the environment. Currently, there are no exposures to human beings and no releases to the environment from these uses. In most cases these exposures would be higher than typically found in nature and more likely to be encountered by a member of a sensitive population.

EPA wants to achieve the following objectives with regard to the significant new uses that are designated in this rule. EPA wants to ensure that:

- EPA will receive notice of any company's intent to manufacture, import, or process Bcc for a significant new use before that activity begins.
- EPA will have an opportunity to review and evaluate data submitted in an MCAN or TERA before the notice submitter begins manufacturing, importing, or processing Bcc for a significant new use.
- EPA would be able to regulate prospective manufacturers, importers, or processors of Bcc before a significant new use occurs, provided such regulation is warranted pursuant to TSCA section 5(e) or section (5)(f).

V. Alternatives

Before issuing this SNUR, EPA considered the following alternative regulatory actions for Bcc. In addition, EPA determined that Bcc is currently not subject to Federal notification requirements.

1. *Promulgate a TSCA section 8(a) reporting rule for Bcc.* Under a TSCA section 8(a) rule, EPA could require any person to report information to the Agency when they intend to manufacture or import Bcc. However, the use of TSCA section 8(a) rather than the SNUR authority, would not provide the opportunity for EPA to review human and environmental hazards and exposures associated with the new uses of these substances and, if necessary, to take immediate regulatory action under TSCA section 5(e) or section 5(f) to prohibit or limit the activity before it begins. In addition, EPA may not receive important information from small businesses, because those firms generally are exempt from TSCA section 8(a) reporting requirements. In view of EPA's concerns about Bcc and its interest in having the opportunity to review these substances and regulate them as appropriate, pending the development of exposure and/or hazard information should a significant new use be initiated, the Agency believes that a TSCA section 8(a) rule for Bcc would not meet all of EPA's regulatory objectives.

2. *Regulate Bcc under TSCA section 6.* EPA must regulate under TSCA section 6 if there is a reasonable basis to conclude that the manufacture, import, processing, distribution in commerce, use, or disposal of a chemical substance or mixture ''presents or will present'' an unreasonable risk of injury to human health or the environment. Based on EPA's findings that there is currently no general commercial use of Bcc, EPA concluded that risk management action under TSCA section 6 is not necessary at this time. This SNUR will allow the Agency to address the potential risks associated with any intended significant new use of Bcc.

VI. Test Data and Other Information

EPA recognizes that section 5 of TSCA does not require the development of any particular test data before submission of a MCAN or TSCA Experimental Release Application (TERA). Persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them (15 U.S.C. 2604(d); 40 CFR 725.160).

However, in view of the potential health risks posed by the significant new uses of Bcc, EPA requests that potential MCAN or TERA submitters include data that would permit a reasoned evaluation of risks posed by Bcc when used for an intended significant new use. EPA also requests that potential MCAN or TERA submitters include data that demonstrate that the bacteria which would be the subject of the MCAN or TERA are in fact in the Bcc. EPA encourages persons to consult with the Agency before submitting an MCAN or TERA for Bcc. As part of this optional pre-notice consultation, EPA will discuss specific data it believes are necessary to evaluate a significant new use of Bcc. EPA urges MCAN or TERA submitters to provide detailed information on human and environmental exposures that would result or could reasonably be anticipated to result from the significant new uses of Bcc. In addition, EPA encourages persons to submit information on risks posed by Bcc compared to risks posed by possible substitutes. An MCAN or TERA submitted without sufficient data to reasonably evaluate risks posed by a significant new use of Bcc may increase the likelihood that EPA will take action under TSCA section 5(e).

VII. Applicability of Rule to Uses Occurring Before Effective Date of the Final Rule

EPA believes that the intent of section 5(a)(1)(B) of TSCA is best served by designating a use as a significant new use as of the proposal date of the SNUR, rather than as of the effective date of the final rule. If uses begun after publication of the proposed SNUR were considered to be ongoing, rather than new, it would be difficult for EPA to establish notification requirements, because any person could defeat the SNUR by initiating the proposed significant new use before the proposed rule became final, and then argue that the use was ongoing.

Any person who, after publication of the proposed SNUR, began commercial manufacture, import, or processing of Bcc, for the significant new use in this SNUR, must stop such activity before the effective date of the final rule. To resume commercial manufacture, import or processing of Bcc, those persons will have to meet all applicable MCAN or TERA requirements and wait until the notice review period, including all extensions, expires before engaging in any commercial manufacture, import, or processing of Bcc for a significant new use. If, however, persons who began commercial manufacture or import of Bcc for a significant new use between the proposal and the effective date of the final SNUR met the conditions of advance compliance as codified at 40 CFR 725.912, those persons would be considered to have met the requirements of the final SNUR for those activities.

VIII. Economic Considerations

EPA has evaluated the potential costs of establishing a SNUR for potential manufacturers, importers, and processors of Bcc. These potential costs are related to the submission of MCANs, TERAs, and the export notification requirements of TSCA section 12(b). EPA notes that, the costs of submission of MCANs or TERAs will not be incurred by any company unless that company decides to pursue a significant new use as defined in this SNUR. The

Agency's economic analysis is available in the public docket for this rule.

A. MCANs and TERAs

Because of uncertainties related to predicting the number of MCANs or TERAs that will be submitted as a result of this SNUR, EPA is unable to calculate the total annual cost of compliance with the final rule. However, EPA estimates that the cost for preparation and submission of an MCAN ranges from approximately $7,582 to $42,736, which includes the $2,500 user fee required by the Agency. EPA notes that small businesses with annual sales of less than $40 million are subject to a reduced user fee of $100. The cost of a TERA is estimated to range from $6,905 to $73,562.

Based on past experience with SNURs and the low number of Significant New Use Notices (SNUNs) which are submitted on an annual basis, EPA believes that there would be few, if any, MCANs or TERAs submitted as a result of this SNUR. Furthermore, no company is required to submit an MCAN or TERA for Bcc unless the company decides to begin manufacture, import, or processing of Bcc for any use other than research and development in the degradation of chemicals via injection into subsurface groundwater. As a result, EPA expects that companies would be able to determine if the burden of submitting an MCAN or TERA would be likely to create significant adverse economic impacts for the company prior to incurring MCAN/TERA-related costs.

B. Export Notification

As noted in Unit II.C., persons who intend to export a microorganism identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)). These provisions require that a company notify EPA of the first shipment to a particular country of an affected microorganism. The estimated cost of the TSCA section 12(b)(1) export notification, which would be required for the first export to a particular country of a microorganism subject to this rule, is estimated to be $158.35 for the first time that an exporter must comply with TSCA section 12(b)(1) export notification requirements, and $14.43 for each subsequent export notification submitted by that exporter.

EPA is unable to estimate the total number of TSCA section 12(b) notifications that will be received as a result of this SNUR, or the total number of companies that will file these notices. However, EPA expects that the total cost of complying with the export notification provisions of TSCA section 12(b) will be limited based on historical experience with TSCA section 12(b) notifications and the fact that no companies have currently been identified that currently market Bcc commercially. If companies were to manufacture the microorganisms covered by this SNUR for export only, these companies would incur costs associated with export notification even if these companies decided to forgo any domestic significant new use. EPA is not aware of any companies in this situation, and expects that any potential impact would be limited to the small burden of export notification.

IX. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Office of Management and Budget (OMB) has determined that SNURs are not a ''significant regulatory action'' subject to review by OMB, because they do not meet the criteria in section 3(f) of the Executive Order.

B. Paperwork Reduction Act

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, an Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after initial display in the preamble of the final rule and in addition to its display on any related collection instrument, are listed 40 CFR part 9.

The information collection requirements related to this action have already been approved by OMB pursuant to the PRA under OMB control number 2070–0012 (EPA ICR No. 1188.06). This action does not impose any burden requiring additional OMB approval. If an entity were to submit an MCAN or TERA to the Agency, the annual burden is estimated to average between 98.96 and 118.92 hours per response at an estimated reporting cost between $5,957 and $7,192 per MCAN. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review and submit the required MCAN or TERA. This burden estimate does not include the $2,500 user fee submission of an MCAN ($100 for businesses with less than $40 million in annual sales).

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, OP Regulatory Information Division (2137), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that promulgation of this SNUR will not have a significant adverse economic impact on a substantial number of small entities. The rationale supporting this conclusion is as follows. A SNUR applies to any person (including small or large entities) who intends to engage in any activity described in the rule as a ''significant new use.'' By definition of the word ''new,'' and based on all information currently available to EPA, it appears that no small or large entities presently engage in such activity. Since a SNUR only requires that any person who intends to engage in such activity in the future must first notify EPA by submitting an MCAN or TERA, no economic impact will even occur until someone decides to engage in those activities. Although some small entities may decide to conduct such activities in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of over 1000 SNURs, the Agency receives fewer than 10 SNUNs per year. Of those SNUNs submitted, none appear to be from small entities in response to any SNUR. In addition, the estimated reporting cost for submission of an MCAN or TERA (see Unit VIII.A.) are minimal regardless of the size of the firm. Therefore, EPA believes that the potential economic impact of complying with this SNUR is not expected to be significant or adversely impact a substantial number of small entities. This rationale has been provided to the Chief Counsel for Advocacy of the Small Business Administration.

D. Unfunded Mandates Reform Act

Based on EPA's experience with SNURs, State, local, and tribal governments have not been impacted by these rulemakings, and EPA does not

have any reasons to believe that any State, local, or tribal government will be impacted by this rulemaking. As such, EPA has determined that this regulatory action does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of sections 202, 203, 204, or 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

E. Executive Order 13132: Federalism

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).

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This rule does not have tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This does not significantly or uniquely affect the communities of Indian tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000), which took effect on January 6, 2001 do not apply to this rule.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

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) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

In addition, since this action does not involve any technical standards, 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), does not apply to this action.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

K. Executive Order 12630: Governmental Actions and Interference with Constitutionally Protected Property Rights

EPA has complied with Executive Order 12630, entitled *Governmental Actions and Interference with Constitutionally Protected Property Rights* (53 FR 8859, March 15, 1988), by examining the takings implications of this rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order.

L. Executive Order 12988: Civil Justice Reform

In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988, entitled *Civil Justice Reform* (61 FR 4729, February 7, 1996).

M. Congressional Review Act

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

List of Subjects in 40 CFR Part 725

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: June 6, 2003.

Charles M. Auer,

Director, Office of Pollution Prevention and Toxics.

■ Therefore, 40 CFR part 725 is amended as follows:

PART 725—[AMENDED]

■ 1. The authority citation for part 725 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, 2613, and 2625.

■ 2. By adding new § 725.1075 to subpart M to read as follows:

§ 725.1075 Burkholderia cepacia complex.

(a) *Microorganism and significant new uses subject to reporting.* (1) The microorganisms identified as the *Burkholderia cepacia* complex defined as containing the following nine species, *Burkholderia cepacia*, *Burkholderia multivorans*, *Burkholderia stabilis*, *Burkholderia vietnamiensis*, *Burkholderia ambifaria*, *Burkholderia pyrrocinia*, *Burkholderia cepacia* genomovar VIII (*Burkholderia anthina*), and *Burkholderia cepacia* genomovars III and VI are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new use is any use other than research and development in the degradation of chemicals via injection into subsurface groundwater.

(b) [Reserved]

[FR Doc. 03–15010 Filed 6–12–03; 8:45 am]

BILLING CODE 6560–50–S

Proposed Rules

Federal Register
Vol. 68, No. 114
Friday, June 13, 2003

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

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Housing Service

Rural Utilities Service

Farm Service Agency

7 CFR Parts 1951 and 4284

RIN 0570–AA40

Value-Added Producer Grants and Agriculture Innovation Centers

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Business-Cooperative Service proposes to implement new regulations for value-added producer grants (Value-Added Producer Grants) and a new demonstration program whereby agriculture innovation centers provide technical and other assistance to agricultural producers to help them establish businesses that produce and sell value-added agricultural commodities or products (Agriculture Innovation Centers). The Agricultural Innovation Center program is authorized under the Farm Security and Rural Investment Act of 2002 (2002 Farm Bill). The 2002 Farm Bill also modified and extended the authority of the Secretary of the U.S. Department of Agriculture (Secretary) (USDA) to make Value-Added Producer Grants.

This proposed rule also implements regulations in one central location to consolidate requirements that are common to all grant programs administered by Cooperative Services within the Rural Business-Cooperative Service (RBS), thereby avoiding the necessity of repeating elements shared in common.

This proposed rule also amends the regulations to reduce the matching requirement required of certain institutions of higher education with respect to Rural Cooperative Development Grants from 25 percent to 5 percent and to adjust the scoring criteria to reflect this change.

Finally, this proposed rule amends the regulations to add Value-Added Producer Grants and Agriculture Innovation Center Grants to the list of RBS programs covered by the servicing regulation.

DATES: Written or email comments on this proposed rule must be submitted on or before August 12, 2003. The comment period for information collections under the Paperwork Reduction Act of 1995 continues through August 12, 2003.

ADDRESSES: Submit written comments, in duplicate, via either the U.S. Postal Service or express courier. Comments sent via the U.S. Postal Service should be addressed to the Branch Chief, Regulations and Paperwork Management Branch, Rural Development, U.S. Department of Agriculture, STOP 0742, 1400 Independence Ave., SW., Washington, DC 20250–0742. Written comments via Federal Express Mail, or via another mail courier service requiring a street address, should be addressed to the same attention at 300 7th Street, SW., 3rd Floor, Room 701, Washington, DC 20024. Also, comments may be submitted via the Internet by addressing them to *comments@rus.usda.gov* and must contain the word ''Value-Added'' in the subject line. All written comments will be available for public inspection during regular work hours at the 300 7th Street, SW., address listed above.

FOR FURTHER INFORMATION CONTACT: Jim Haskell, Assistant Deputy Administrator, Rural Business-Cooperative Service, USDA, Stop 3250, Room 4016, 1400 Independence Ave., SW., Washington, DC 20250–3250, telephone (202) 720–8460, or Internet e-mail *james.haskell@usda.gov*.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been reviewed under Executive Order 12866 and has been determined to be a significant regulatory action by the Office of Management and Budget.

Programs Affected

The Catalog of Federal Domestic Assistance Program numbers assigned to these programs are 10.352 (Value-Added Grants), 10.771 (Rural Cooperative Development Grants) and 10.776 (Agriculture Innovation Centers).

Program Administration

These programs are administered through the Cooperative Services Program of the Rural Business-Cooperative Services Agency within the Rural Development mission area of USDA and delivered via the USDA Rural Development state directors.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 the Agency will seek OMB approval of the collection requirements contained in these proposed regulations for the Agriculture Innovation Center Grant program.

The information collection requirements associated with Value-Added Producer Grants and Rural Development Cooperative Grants were granted standard OMB approval under control numbers 0570–0039 and 0570–0006.

Title: Agriculture Innovation Centers.

OMB No.: New Collection.

Abstract: This program will be administered by Cooperative Services within the Rural Business-Cooperative Service. The Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171, signed May 13, 2002) authorized the Secretary of the U.S. Department of Agriculture (USDA) to award grant funds for a demonstration program under which agricultural producers are provided technical and business development assistance enabling them to produce and market value-added products.

This is a competitive grant program with a matching funds requirement. The rulemaking sets forth the policies and procedures associated with the grant application and evaluation procedures and ongoing administration requirements for the program. The paperwork burden associated with the application process and ongoing reporting is included in this collection.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 10 hours per response.

Respondents: Public and private entities engaged in research and technical assistance for developing value added agricultural products.

Estimated Number of Respondents: 25.

Estimated Number of Responses per Respondent: 2.

Estimated Number of Responses: 43.

Estimate of Total Annual Burden on Respondents: 416.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch, Support Services Division at (202) 692–0043.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RBS, including whether the information will have practical utility; (b) the accuracy of RBS' 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. Comments may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, Support Services Division, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave., SW., Washington, DC 20250. 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.

Environmental Impact Statement

It is the determination of the Secretary that this action is not a major Federal action significantly affecting the environment. Therefore, in accordance with the National Environmental Policy Act of 1969, an Environmental Impact Statement is not required.

Executive Order 12988

This rule has been reviewed in accordance with E.O. 12988, Civil Justice Reform. In accordance with this rule: (1) All state and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, USDA must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to state, local or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of UMRA generally requires USDA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for state, local, and tribal governments or the private sector. Therefore this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. The Regulatory Flexibility Act is intended to encourage Federal agencies to utilize innovative administrative procedures in dealing with individuals, small businesses, small organizations, and small governmental bodies that would otherwise be unnecessarily adversely affected by Federal regulations. The provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. Therefore, no regulatory flexibility analysis under the Regulatory Flexibility Act is necessary.

Executive Order 13132, Federalism

The policies contained in this rule do not have any 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. Nor does this rule impose substantial direct compliance costs on state and local governments. This rule is intended to foster cooperation between the Federal Government and the states and local governments, and reduces, where possible, any regulatory burden imposed by the Federal Government that impedes the ability of states and local governments to solve pressing economic, social and physical problems in their state.

I. Background

Section 6402 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171) (2002 Farm Bill) authorized a new grant initiative to establish up to 15 agriculture innovation demonstration centers (Agriculture Innovation Centers or AICs) with the intent of fostering the ability of agricultural producers to reap the benefits of producing and marketing value-added products. Section 6401 of the 2002 Farm Bill expanded a value-added producer grant program initially established by section 231 of the Agricultural Risk Protection Act of 2000 (Pub. L. 106–224). These two provisions of the 2002 Farm Bill are the subject of this proposed rulemaking.

The Value-Added Producer Grant program was authorized in 2000. Over $57,000,000 in value-added producer grants have been awarded since this program was first authorized. This proposed rule incorporates the broader standards for eligibility for future producer grants and reflects some of the lessons learned from the experiences of the U.S. Department of Agriculture in implementing this program over the past two years. For example, we have clarified that two separate types of grants are available, *i.e.*, planning and working capital grants, with slight differences in the respective application requirements and evaluation criteria.

The grant purposes for Value-Added Producer grants are primarily to support the development and implementation of business plans and marketing strategies for value-added products and are made directly to agricultural producers. The 2002 Farm Bill added a new dimension to value-added efforts with the authorization of grants for a third value-added program, namely a demonstration program whereby the grant recipients are to be centers that provide technical assistance and marketing and development assistance to producers. The proposed rule contemplates that the centers in question are not new buildings, per se, but may be research and resource centers operating under the umbrella of an established entity.

The eligibility requirements for the Agriculture Innovation Centers authorized in section 6402 of the 2002 Farm Bill place an emphasis on the recipients' capabilities and a plan and board management that reflect the needs of the agricultural community in their

state. Their mandate is to provide technical assistance for marketing and business development assistance to enable agricultural producers to produce value-added agricultural products.

II. Program Descriptions

A. Value-Added Producer Grants

Value-Added Agricultural Product

The term value-added agricultural product means any agricultural commodity or product that has been changed, produced, or segregated such that the market for the product has expanded and where the greater portion of the revenue derived from the value-added activity accrues to the producer of the commodity or product.

Use of Grant Funds

The purpose of this program is to enable producers of agricultural commodities to participate in the economic returns to be found in the value-added market. Grants are to be used to develop business plans and develop strategies for creating marketing opportunities. Grants may also be used for feasibility studies and to provide capital to establish alliances or business ventures that allow the producers of the value-added agricultural product to better compete in domestic and international markets.

Grant funds may not be used for planning, repair, rehabilitation, acquisition, or construction of a building or a facility (including a processing facility), or for the purchase, rental, or installation of fixed equipment.

Eligibility

Grants will be awarded only to independent producers, eligible agricultural producer groups, farmer or rancher cooperatives or majority-controlled producer based business ventures. Independent producers include agricultural producers, steering committees of producers and producer-owned corporations and associations who do not produce the agricultural product under contract or joint ownership with any other organization.

Matching Funds

Grant recipients will provide matching non-Federal funds equal to the amount of the grant received. These matching funds must be provided in advance of grant funding, such that for every dollar of grant that is advanced, an equal amount of match funds shall have been funded prior to submitting the request for reimbursement.

B. Agriculture Innovation Centers

Use of Grant Funds

Grant funds are to be used for a demonstration program whereby centers are established to provide agricultural producers with technical and business development assistance for establishing businesses producing and selling value-added agricultural products, assistance in marketing, market development and business planning and organizational and development assistance to increase the viability, growth and sustainability of value-added businesses.

Grants may be used for the following purposes: applied research, consulting services, hiring of employees, the making of matching grants, legal services and other related costs of conducting the above activities. Funds for these purposes may not be used to plan, repair, rehabilitate, acquire, or construct a building or a facility (including a processing facility) or to purchase, rent, or install fixed equipment.

Eligibility

A grant may be made to an entity that demonstrates the capacity and technical expertise to conduct the activities described above. In addition to the capacity factor, the entity must provide a plan with specific goals to be met and support for the entity in the agricultural community. Also, the entity must demonstrate that adequate resources (in cash or in kind) are available, or have been committed for this purpose which will allow the grant recipient to achieve the goals established. Finally, the entity must have a board of directors such that there are representatives of each of the following groups on the board: (a) The two general agricultural organizations with the greatest number of members in the State in which the entity is located, (b) the applicable State department of agriculture and (c) entities representing the four highest grossing commodities produced in the State, determined on the basis of annual gross cash sales. Trade associations are eligible to apply.

III. Rural Cooperative Development Grants and Conforming Amendments

Section 6015 of the 2002 Farm Bill reduced the match funding requirements for rural cooperative development grants imposed on certain institutions of higher learning from 25 percent to 5 percent. These institutions are defined as ''1994 Institutions'' and are listed by name in the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note). This rulemaking proposes to amend the regulation applicable to this grant program to provide for this targeted reduced match funding requirement.

The amendments proposed for subpart F within 7 CFR part 4284 conform the regulations for the rural cooperative development grant program with the newly implemented subpart A that consolidates provisions common to all grant programs administered by Cooperative Services within RBS.

List of Subjects

7 CFR Part 1951

Grant programs—Housing and community development, Reporting requirements, Rural development.

7 CFR Part 4284

Agricultural commodities, Agriculture innovation centers, Agricultural marketing research, Business and industry, Grant programs—housing and community development, Rural areas, Rural development, Value-added.

Accordingly, RBS proposes to amend Chapters XVIII and XLII, title 7, of the Code of Federal Regulations as follows:

PART 4284—GRANTS

1. The authority citation for part 4284 is revised to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.
Subpart F also issued under 7 U.S.C 1932(e)
Subpart G also issued under 7 U.S.C 1926(a)(11)
Subpart J also issued under 7 U.S.C 1621 note
Subpart K also issued under 7 U.S.C. 1621 note

2. Subpart A of part 4284, consisting of §§ 4284.1 through 4284.100 is added to read as follows:

Subparts B Through E—[Reserved]

Subpart A—General Requirements for Cooperative Services Grant Programs

Sec.
4284.1 Purpose.
4284.2 Policy.
4284.3 Definitions.
4284.4 Appeals.
4284.5 [Reserved]
4284.6 Applicant eligibility.
4284.7 Electronic submission.
4284.8 Grant approval and obligation of funds.
4284.9 Grant disbursement.
4284.10 Ineligible grant purposes.
4284.11 Award requirements.
4284.12 Reporting requirements.
4284.13 Confidentiality of reports.
4284.14 Grant servicing.
4284.15 Performance reviews.
4284.16 Other considerations.
4284.17 Member delegate clause.
4284.18 Audit requirements.
4284.19 Programmatic changes.
4284.20–4284.100 [Reserved]

§ 4284.1 Purpose.

The purpose of this subpart is to set forth definitions and requirements which are common to all grant programs set forth in this part administered by Cooperative Services within the Rural Business-Cooperative Service (RBS). Programs administered by the Business Programs within RBS are not affected by this subpart.

§ 4284.2 Policy.

It is the policy of Cooperative Services to administer grant programs as uniformly as possible to minimize unnecessary inconsistencies in the administration of the grant programs provided for in this part. The specific provisions or definitions provided in the subparts that are specific to Cooperative Services are supplemental to these general provisions. Where a specific program provision is expressly different from what is provided in this subpart, the program specific subpart shall prevail.

§ 4284.3 Definitions.

Agency—Rural Business-Cooperative Service (RBS), an agency of the United States Department of Agriculture (USDA), or a successor agency.

Agriculture Producer Group—An organization that represents Independent Producers, whose mission includes working on behalf of Independent Producers and the majority of whose membership and board of directors is comprised of Independent Producers.

Agricultural Product—Plant and animal products and their by-products to include forestry products, fish and seafood products.

Cooperative—A user-owned and controlled business from which benefits are derived and distributed equitably on the basis of use.

Cooperative Services'' The office within RBS, and its successor organization, that administers programs authorized by the Cooperative Marketing Act of 1926 (7 U.S.C. 451 *et seq.*) and such other programs so identified in USDA regulations.

Economic development—The economic growth of an area as evidenced by increase in total income, employment opportunities, decreased out-migration of population, value of production, increased diversification of industry, higher labor force participation rates, increased duration of employment, higher wage levels, or gains in other measurements of economic activity, such as land values.

Emerging Market—A new or developing market for the applicant, which the applicant has not traditionally supplied.

Farmer or Rancher Cooperative—A duly recognized farmer or rancher cooperative in good standing under State law.

Fixed equipment—Tangible personal property used in trade or business that would ordinarily be subject to depreciation under the Internal Revenue Code, including processing equipment, but not including property for equipping and furnishing offices such as computers, office equipment, desks or file cabinets.

Independent Producers—Agricultural producers, to include individuals, for profit and not for profit corporations, LLCs, partnerships or LLPs, solely owned or controlled by producers who do not produce the agricultural product under contract or joint ownership with any other organization. An independent producer can also be a steering committee composed of independent agricultural producers in the process of organizing an association to operate a value-added venture that will be owned and controlled by the independent producers supplying agricultural product to the market.

Majority-Controlled Producer-Based Business Venture—A venture where more than 50% of the ownership and control is held by Independent Producers and or partnerships, LLCs, LLPs, corporations or cooperatives that are themselves 100 percent owned and controlled by Independent Producers.

Matching Funds—Cash or confirmed funding commitments from non-Federal sources unless otherwise provided by law. Unless otherwise provided, matching funds must be at least equal to the grant amount. Unless otherwise provided, in-kind contributions that conform to the provisions of 7 CFR 3015.50 and 7 CFR 3019.23, as applicable, can be used as matching funds. Examples of in-kind contributions include volunteer services furnished by professional and technical personnel, donated supplies and equipment, and donated office space. Matching funds must be provided in advance of grant funding, such that for every dollar of grant that is advanced, not less than an equal amount of match funds shall have been funded prior to submitting the request for reimbursement. Matching funds are subject to the same use restrictions as grant funds. Funds used for an ineligible purpose will not be considered matching funds.

National Office—USDA RBS headquarters in Washington, D.C.

Nonprofit institution—Any organization or institution, including an accredited institution of higher education, no part of the net earnings of which may inure, to the benefit of any private shareholder or individual.

Product segregation—Physical separation of a product or commodity from similar products. Physical separation requires a barrier to prevent mixing with the similar product.

Public body—Any state, county, city, township, incorporated town or village, borough, authority, district, economic development authority, or Indian tribe on federal or state reservations or other federally recognized Indian tribe in rural areas.

RFP—Request for Proposals.

Rural and rural area—includes all the territory of a state that is not within the outer boundary of any city or town having a population of 50,000 or more and the urbanized area contiguous and adjacent to such city or town, as defined by the U.S. Bureau of the Census using the latest decennial census of the United States.

Rural Development—A mission area within the USDA consisting of the Office of Under Secretary for Rural Development, Office of Community Development, Rural Business-Cooperative Service, Rural Housing Service and Rural Utilities Service and their successors.

State—includes each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and, as may be determined by the Secretary to be feasible, appropriate and lawful, the Freely Associated States and the Federated States of Micronesia.

State Office—USDA Rural Development offices located in each state.

Value-Added—The incremental value that is realized by the producer from an agricultural commodity or product as the result of a change in its physical state, differentiated production or marketing, as demonstrated in a business plan, or product segregation. Also, the economic benefit realized from the production of farm or ranch-based renewable energy. Incremental value may be realized by the producer as a result of either an increase in value to buyers or the expansion of the overall market for the product. Examples include milling wheat into flour, slaughtering livestock or poultry, making strawberries into jam, the marketing of organic products, an identity-preserved marketing system, and collecting and converting methane from animal waste to generate energy. Identity-preserved marketing systems

include labeling that identifies how the product was produced and by whom.

§ 4284.4 Appeals.

Any appealable adverse decision made by the Agency may be appealed in accordance with USDA appeal regulations found at 7 CFR part 11 and subpart B of part 1900. If the Agency makes a determination that a decision is not appealable, a participant may request that it be reviewed by the Director of the National Appeals Division.

§ 4284.5 [Reserved]

§ 4284.6 Applicant eligibility.

An outstanding judgment obtained against an applicant by the United States in a Federal Court (other than in the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any assistance until the judgment is paid in full or otherwise satisfied. RBS grant funds may not be used to satisfy the judgment.

§ 4284.7 Electronic submission.

Applicants and grant awardees are encouraged, but not required, to submit applications and reports in electronic form as prescribed in requests for proposals issued by USDA and in the applicable grant agreements.

§ 4284.8 Grant approval and obligation of funds.

(a) The following statement will be entered in the comment section of the Request for Obligation of Funds, which must be signed by the grantee:

The grantee certifies that it is in compliance with and will continue to comply with all applicable laws, regulations, Executive Orders and other generally applicable requirements, including those contained in 7 CFR part 4284 and 7 CFR parts 3015, 3016, 3017, 3018, 3019 and 3052 in effect on the date of grant approval, and the approved Letter of Conditions.

(b) [Reserved]

§ 4284.9 Grant disbursement.

The Agency will determine, based on 7 CFR parts 3015, 3016 and 3019, as applicable, whether disbursement of a grant will be by advance or reimbursement. The Agency may limit the frequency in which a Request for Advance or Reimbursement may be submitted.

§ 4284.10 Ineligible grant purposes.

Grant funds may not be used to:

(a) Duplicate current services or replace or substitute support previously provided. If the current service is inadequate, however, grant funds may be used to expand the level of effort or services beyond what is currently being provided;

(b) Pay costs of preparing the application package for funding under this program;

(c) Pay costs of the project incurred prior to the date of grant approval;

(d) Fund political activities;

(e) Pay for assistance to any private business enterprise which does not have a least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence;

(f) Pay any judgment or debt owed to the United States;

(g) Plan, repair, rehabilitate, acquire, or construct a building or facility (including a processing facility);

(h) Purchase, rent or install Fixed Equipment; or

(i) Pay for the repair of privately owned vehicles.

§ 4284.11 Award requirements.

In addition to specific grant requirements, all approved applicants will be required to do the following:

(a) Enter into a grant agreement with USDA in form and substance similar to the form of agreement as may be published within or as an appendix to the applicable RFP;

(b) Submit a feasibility study and business plan showing the viability of the venture, if any Federal grant and matching funds are to be used as working capital;

(c) Use ''Request for Advance or Reimbursement'' to request advances or reimbursements, as applicable, but not more frequently than once a month;

(d) Maintain a financial management system that is acceptable to the Agency; and

(e) Collect and maintain data on race, sex and national origin of the beneficiaries of the project.

§ 4284.12 Reporting requirements.

Grantees must submit the following to USDA:

(a) A ''Financial Status Report'' listing expenditures according to agreed upon budget categories, on a semi-annual basis. Reporting periods end each March 31 and September 30. Reports are due 30 days after the reporting period ends.

(b) Semi-annual performance reports that compare accomplishments to the objectives stated in the proposal. Identify all tasks completed to date and provide documentation supporting the reported results. If the original schedule provided in the work plan is not being met, the report should discuss the problems or delays that may affect completion of the project. Objectives for the next reporting period should be listed. Compliance with any special condition on the use of award funds should be discussed. Reports are due as provided in paragraph (a) of this section. The supporting documentation for completed tasks include, but are not limited to, feasibility studies, marketing plans, business plans, articles of incorporation and bylaws and an accounting of how working capital funds were spent.

(c) Final project performance reports, inclusive of supporting documentation. The final performance report is due within 30 days of the completion of the project.

§ 4284.13 Confidentiality of reports.

All reports submitted to the Agency will be held in confidence to the extent permitted by law.

§ 4284.14 Grant servicing.

Grants will be serviced in accordance with 7 CFR part 1951, subparts E and O. Grantees will permit periodic inspection of the program operations by a representative of the Agency. All non-confidential information resulting from the Grantee's activities shall be made available to the general public on an equal basis.

§ 4284.15 Performance reviews.

(a) USDA will incorporate performance criteria in grant award documentation and will regularly evaluate the progress and performance of grant awardees.

(b) USDA may elect to suspend or terminate a grant in all or part, or funding of a particular workplan activity, but nevertheless fund the remainder of a request for advance or reimbursement, as applicable, where USDA has determined:

(1) That the grantee or subrecipient of grant funds has demonstrated insufficient progress in complying with the terms of the grant agreement;

(2) There is reason to believe that other sources of joint funding have not been or will not be forthcoming on a timely basis; or

(3) Such other cause as USDA identifies in writing to the grantee (including but not limited to the use of federal grant funds for ineligible purposes).

§ 4284.16 Other considerations.

(a) *Environmental review.* All grants made under this subpart are subject to the requirements of 7 CFR part 1940, subpart G. Applications for technical assistance or planning projects are generally excluded from the environmental review process by

§ 1940.333, provided the assistance it not related to the development of a specific site. Applicants for grant funds must consider and document within their plans the important environmental factors within the planning area and the potential environmental impacts of the plan on the planning area, as well as the alternative planning strategies that were reviewed.

(b) *Civil rights.* All grants made under this subpart are subject to the requirements of title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color and national origin as outlined in 7 CFR part 1901, subpart E. In addition, the grants made under this subpart are subject to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of disability; the requirements of the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age; and title III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability by private entities in places of public accommodations. This program will also be administered in accordance with all other applicable Civil Rights Law.

(c) *Other USDA regulations.* The grant programs under this part are subject to the provisions of the following regulations, as applicable:

(1) 7 CFR part 3015, Uniform Federal Assistance Regulations;

(2) 7 CFR part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;

(3) 7 CFR part 3017, Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants);

(4) 7 CFR part 3018, New Restrictions on Lobbying;

(5) 7 CFR part 3019, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-profit Organizations; and

(6) 7 CFR part 3052, Audits of States, Local Governments and Non-profit Organizations.

§ 4284.17 Member delegate clause.

No member of Congress shall be admitted to any share or part of a grant program or any benefit that may arise there from, but this provision shall not be construed to bar as a contractor under a grant a publicly held corporation whose ownership might include a member of Congress.

§ 4284.18 Audit requirements.

Grantees must comply with the audit requirements of 7 CFR part 3052. The audit requirements apply to the years in which grant funds are received and years in which work is accomplished using grant funds.

§ 4284.19 Programmatic changes.

The Grantee shall obtain prior approval for any change to the scope or objectives of the approved project. Failure to obtain prior approval of changes to the scope of work or budget may result in suspension, termination and recovery of grant funds.

§§ 4284.204–284.100 [Reserved]

3. Subpart J of part 4284, consisting of §§ 4284.901 through 4284.1000 is added to read as follows:

Subpart J—Value-Added Producer Grants

Sec.

4284.901 Purpose.
4284.902 Policy.
4284.903 Program administration.
4284.904 Definitions.
4284.905–906 [Reserved]
4284.907 Eligibility for grant assistance.
4284.908 Use of grant and matching funds.
4284.909 Limitations on use of funds.
4284.910 Application processing.
4284.911 Evaluation screening.
4284.912 Evaluation process.
4284.913 Evaluation criteria and weights.
4284.914 Grant closing.
4284.915–4284.999 [Reserved]
4284.1000 OMB control number.

§ 4284.901 Purpose.

This subpart implements the value-added agricultural product market development grant program (Value-Added Producer Grants) administered by the Rural Business-Cooperative Service whereby grants are made to enable producers to develop businesses that produce and market value-added agricultural products.

§ 4284.902 Policy.

It is the policy of the Secretary of Agriculture to fund a broad diversity of projects that help increase the agricultural producers' customer base and share of the food and agricultural system profit, including projects likely to increase the profitability and viability of small and medium-sized farms and ranches.

§ 4284.903 Program Administration.

The Value-Added Producer Grant program is administered by Cooperative Services within the Agency.

§ 4284.904 Definitions.

Planning Grants. Grants to facilitate the development of a defined program of economic activities to determine the viability of a potential value-added venture, including feasibility studies, marketing strategies, business plans and legal evaluations.

Working Capital Grants. Grants to provide funds to operate ventures and pay the normal expenses of the venture that are eligible uses of grant funds.

§§ 4284.905–906 [Reserved]

§ 4284.907 Eligibility for grant assistance.

(a) The proposed project must generate Value-Added for an Agricultural Product.

(b) Independent Producers, Agricultural producer groups, Farmer or Rancher cooperatives and Majority-Controlled Producer-Based Business Ventures, are eligible for grants under this subpart.

(c) Applicants that are a Farmer or Rancher cooperative, an Agriculture producer group or a Majority-Controlled Producer-Based Business Venture must be entering into an Emerging Market as a result of the proposed project. Independent Producers do not have to be entering into an Emerging Market.

(d) No project may be the subject of more than one Planning Grant or more than one Working Capital Grant. The same project may, however, be awarded one Planning Grant and subsequently apply for and receive a Working Capital Grant.

(e) Not more than one project per applicant may receive grant funding under this subpart.

(f) The total amount provided to any grant recipient shall not exceed $500,000.

§ 4284.908 Use of grant and matching funds.

(a) An application may be for either a Planning Grant or a Working Capital Grant, but not both.

(b) Grant funds may be used to pay up to 50 percent of the costs for carrying out relevant projects. Matching funds must be provided for the balance of costs.

(c) Matching funds may only be used for the same purposes allowed for grant funds.

(d) Planning Grant funds may be used to develop a business plan or perform a feasibility study to establish a viable marketing opportunity for a value-added producer. These uses include, but are not limited to, the following:

(1) Conduct, or hire a qualified consultant to conduct, a feasibility analysis of the proposed value added project to help determine the potential success of the project;

(2) Develop, or hire a qualified consultant to develop, a business

operations plan that provides comprehensive detail on the management, planning and other operational aspects of the proposed project; and

(3) Develop, or hire a qualified consultant to develop, a marketing plan for the proposed value-added product(s) including the identification of a market window, potential buyers, a description of the distribution system and possible promotional campaigns;

(e) Working Capital Grant funds may be used to provide capital to establish alliances or business ventures that allow the producer of the value-added agricultural product to better compete in domestic or international markets. These uses include, but are not limited to, the following:

(1) Establish a working capital account to fund operations prior to obtaining sufficient cash flow from operations;

(2) Hire counsel to provide legal advice and to draft organizational and other legal documents related to the proposed venture;

(3) Hire a Certified Public Accountant or other qualified individual to design an accounting system for the proposed venture; and

(4) Pay salaries, utilities and other operating costs such as inventory financing, the purchase of office equipment, computers and supplies and finance other related activities.

§ 4284.909 Limitations on use of funds.

In addition to the limitations provided in 7 CFR subpart A, neither grant nor matching funds may be used to fund architectural or engineering design work, or other planning work, for a physical facility.

§ 4284.910 Application processing.

(a) *Applications.* USDA will solicit applications on a competitive basis by publication of one or more RFPs. Unless otherwise specified in the applicable RFP, applicants must file an original and one copy of the required forms and a proposal.

(b) *Required forms.* The following forms must be completed, signed and submitted as part of the application package. Other forms may be required. This will be published in the applicable RFP.

(1) ''Application for Federal Assistance.''

(2) ''Budget Information—Non-Construction Programs.''

(3) ''Assurances—Non-Construction Programs.''

(c) *Proposal.* Each proposal must contain the following elements. Additional elements may be published in the applicable RFP.

(1) Title page.

(2) Table of contents.

(3) Executive summary. A summary of the proposal should briefly describe the project including goals, tasks to be completed and other relevant information that provides a general overview of the project. In this section the applicant must clearly state whether the application is for a Planning Grant or a Working Capital Grant and the amount requested.

(4) Eligibility. The narrative must include a detailed discussion of how the applicant meets the eligibility requirements.

(5) Proposal narrative. The narrative portion of the proposal must include, but is not limited to, the following:

(i) Project title. The title of the proposed project must be brief, not to exceed 75 characters, yet describe the essentials of the project.

(ii) Information sheet. A separate one page information sheet listing each of the evaluation criteria referenced in the RFP followed by the page numbers of all relevant material and documentation contained in the proposal that address or support the criteria.

(iii) Goals of the project. A clear statement of the ultimate goals of the project. There must be an explanation of how a market will be expanded and the degree to which incremental revenue will accrue to the benefit of the agricultural producer(s).

(iv) Work plan. The narrative must contain a description of the project and set forth the tasks involved in reasonable detail.

(v) Performance evaluation criteria. Performance criteria suggested by the applicant for incorporation in the grant award in the event the proposal receives grant funding under this subpart. These suggested criteria are not binding on USDA.

(vi) Proposal evaluation criteria. Each of the proposal evaluation criteria referenced in the RFP must be addressed, specifically and individually, in narrative form.

(6) Verification of matching funds. Applicants must provide a budget to support the work plan showing all sources and uses of funds during the project period. Applicants will be required to verify matching funds, both cash and in-kind. Sufficient information should be included such that USDA can verify all representations.

(7) Certification. Applicants must certify that matching funds will be available at the same time grant funds are anticipated to be spent and that matching funds will be spent in advance of grant funding, such that for every dollar of grant that is advanced, not less than an equal amount of match funds will have been funded prior to submitting the request for reimbursement.

§ 4284.911 Evaluation screening.

The Agency will conduct an initial screening of all proposals to determine whether the applicant is eligible and whether the application is complete and sufficiently responsive to the requirements set forth in the RFP to allow for an informed review. Failure to address any of the required evaluation criteria will disqualify the proposal. Submissions which do not pass the initial screening may be returned to the Applicant. If the submission deadline has not expired and time permits, returned applications may be revised and re-submitted.

§ 4284.912 Evaluation process.

(a) Applications will be evaluated by agricultural economists or other technical experts appointed by the Agency.

(b) After all proposals have been evaluated and scored in accordance with the point allocation specified in the applicable RFP, Agency officials will present to the Administrator of RBS a list of all applications in rank order, together with funding level recommendations.

(c) The Administrator reserves the right to award additional points, as specified in the applicable RFP, to accomplish agency objectives (*e.g.* to ensure geographic distribution, distribution of a commodity or accomplish presidential initiatives.) The maximum number of points that can be added to an application cannot exceed ten percent of the total points of the original score.

(d) After giving effect to the Administrator's point awards, applications will be funded in rank order until all available funds have been obligated.

(e) In the event an insufficient number of eligible applications are received in response to a given RFP, time permitting, subsequent rounds of competition will be initiated by publishing subsequent RFPs.

(f) Unless a proposal is withdrawn, eligible but unfunded proposals from preceding competitions in a given fiscal year will be considered for funding in subsequent competitions in the same fiscal year.

§ 4284.913 Evaluation criteria and weights.

Unless supplemented in a RFP, the criteria listed in this section will be used to evaluate proposals submitted under this subpart. The distribution of

points to be awarded per criterion will be identified in the applicable RFP.

(a) *Planning grants.* (1) *Nature of the proposed venture.* Projects will be evaluated for technological feasibility, operational efficiency, profitability, sustainability and the likely improvement to the local rural economy. Points will be awarded based on the greatest expansion of markets and increased returns to producers. Evaluators may rely on their own knowledge and examples of similar ventures described in the proposal to form conclusions regarding this criterion.

(2) *Qualifications of those doing work.* Proposals will be reviewed for whether the personnel who are responsible for doing proposed tasks, including those hired to do studies, have the necessary qualifications. If a consultant or others are to be hired, more points may be awarded if the proposal includes evidence of their availability and commitment as well.

(3) *Project leadership.* The leadership abilities of individuals who are proposing the venture will be evaluated as to whether they are sufficient to support a conclusion of likely project success. Credit may be given for leadership evidenced in community or volunteer efforts.

(4) *Commitments and support.* Producer commitments will be evaluated on the basis of the number of Independent Producers currently involved as well as how many may potentially be involved, and the nature, level and quality of their contributions. End user commitments will be evaluated on the basis of potential markets and the potential amount of output to be purchased. Proposals will be reviewed for evidence that the project enjoys third party support and endorsement, with emphasis placed on financial and in kind support as well as technical assistance.

(5) *Work plan/Budget.* The work plan will be reviewed for to whether it provides specific and detailed planning task descriptions that will accomplish the project's goals and the budget will be reviewed for a detailed breakdown of estimated costs associated with the planning activities. The budget must present a detailed breakdown of all estimated costs associated with the planning activities and allocate these costs among the listed tasks. Points may not be awarded unless sufficient detail is provided to determine whether or not funds are being used for qualified purposes. Matching funds as well as grant funds must be accounted for in the budget to receive points.

(6) *Amount requested.* Points will be awarded based on the size of the grant request. Generally, requests for lower amounts will receive a higher score for this criterion than higher requests. The points to be awarded and request ranges will be established in the applicable RFP.

(7) *Project cost per owner-producer.* This is calculated by dividing the amount of Federal funds requested by the total number of producers that are owners of the venture. Points to be awarded will be established in the applicable RFP.

(8) *Presidential initiatives.* Points may be awarded for proposals that focus on Presidential initiatives. Descriptions of these initiatives and the points to be awarded will be established in the applicable RFP.

(b) *Working capital grants.* (1) *Business viability.* Proposals will be evaluated on the basis of the technical and economic feasibility and sustainability of the venture and the efficiency of operations.

(2) *Customer base/increased returns.* Proposals that demonstrate strong growth in a market or customer base and greater value-added revenue accruing to producer-owners will receive more points than those that demonstrate less growth in markets and realized Value-Added returns.

(3) *Commitments and support.* Producer commitments will be evaluated on the basis of the number of Independent Producers currently involved as well as how many may potentially be involved, and the nature and level and quality of their contributions. End user commitments will be evaluated on the basis of identified markets, letters of intent or contracts from potential buyers and the amount of output to be purchased. Proposals will be reviewed for evidence that the project enjoys third party support and endorsement, with emphasis placed on financial and in kind support as well as technical assistance.

(4) *Management team/work force.* The education and capabilities of project managers and those who will operate the venture must reflect the skills and experience necessary to effect project success. The availability and quality of the labor force needed to operate the venture will also be evaluated. Proposals that reflect successful track records managing similar projects will receive higher points for this criterion than those that do not reflect successful track records.

(5) *Work plan/Budget.* The work plan will be reviewed for whether it provides specific and detailed planning task descriptions that will accomplish the project's goals and the budget will be reviewed for a detailed breakdown of estimated costs associated with the planning activities. The budget must present a detailed breakdown of all estimated costs associated with the venture's operations and allocate these costs among the listed tasks. Points may not be awarded unless sufficient detail is provided to determine whether or not funds are being used for qualified purposes. Matching funds as well as grant funds must be accounted for in the budget to receive points.

(6) *Amount requested.* Points will be awarded based on the size of the grant request. Requests for lower amounts will receive a higher score for this criterion than higher requests. The points to be awarded and request ranges will be established in the applicable RFP.

(7) *Project cost per owner-producer.* This is calculated by dividing the amount of Federal funds requested by the total number of producers that are owners of the venture. Points to be awarded will be established in the applicable RFP.

(8) *Presidential initiatives.* Points may be awarded for proposals that focus on Presidential initiatives. Descriptions of these initiatives and the points to be awarded will be established in the applicable RFP.

§ 4284.914 Grant closing.

(a) *Letter of conditions.* The Agency will notify an approved applicant in writing, setting out the conditions under which the grant will be made.

(b) *Applicant's intent to meet conditions.* Upon reviewing the conditions and requirements in the letter of conditions, the applicant must complete, sign and return the Agency's ''Letter of Intent to Meet Conditions,'' or, if certain conditions cannot be met, the applicant may propose alternate conditions to the Agency. The Agency must concur with any changes proposed to the letter of conditions by the applicant before the application will be further processed.

(c) *Grant agreement.* The Agency and the grantee must sign the Agency's ''Value-Added Producer Grant Agreement'' prior to the advance of funds.

§§ 4284.915–999 [Reserved]

§ 4284.1000 OMB control number.

The reporting and recordkeeping requirements contained in this subpart have been approved by the Office of Management and have been assigned OMB control number 0570–0039 in

accordance with the Paperwork Reduction Act of 1995.

4. Subpart K of part 4284, consisting of §§ 4284.1001 through 4284.1100 is added to read as follows:

Subpart K—Agriculture Innovation Demonstration Centers

Sec.
4284.1001 Purpose.
4284.1002 Policy.
4284.1003 Program administration.
4284.1004 Definitions.
4284.1005–1006 [Reserved]
4284.1007 Eligibility for grant assistance.
4284.1008 Use of grant funds.
4284.1009 Application processing.
4284.1010 Evaluation screening.
4284.1011 Evaluation process.
4284.1012 Evaluation criteria and weights.
4284.1013 Grant closing.
4284.1014—4284.1100 [Reserved]

§ 4284.1001 Purpose.

This subpart implements a demonstration program administered by the Rural Business-Cooperative Service whereby grants are made to innovation centers responsible for providing technical and business development assistance to agricultural producers seeking to engage in the marketing or the production of value-added products.

§ 4284.1002 Policy.

It is the policy of the Secretary of Agriculture to fund centers which evidence broad support from the agricultural community in the state or region, significant coordination with end users (processing and distribution companies and regional grocers), strategic alliances with entities having technical research capabilities and a focused delivery plan for reaching out to the producer community. It is also the policy of the Secretary, using the research and technical services of the U.S. Department of Agriculture, to assist the grantees in establishing Centers. This program is not intended to fund scientific research.

§ 4284.1003 Program administration.

The Agriculture Innovation Demonstration Center program is administered by Cooperative Services within the Agency.

§ 4284.1004 Definitions.

Board of Directors—The group of individuals that govern the Center.

Center—The Agriculture Innovation Center to be established and operated by the grantees. It may or may not be an independent legal entity, but it must be independently governed in accordance with the requirements of this subpart.

Qualified Board of Directors—A Board of Directors that includes representatives from each of the following groups:

(1) The two general agricultural organizations with the greatest number of members in the State in which the Center is located,

(2) The State department of agriculture, or equivalent, of the State in which the Center is located and

(3) Entities representing the four highest grossing commodities produced in the State in which the Center is located, as determined on the basis of annual gross cash sales.

Producer Services—are those services to be provided by the Centers to agricultural producers. Producer services consist of the following types of services:

(1) Technical assistance, consisting of engineering services, applied research, scale production, and similar services, to enable the agricultural producers to establish businesses to produce value-added agricultural commodities or products;

(2) Assistance in marketing, market development and business planning, including advisory services with respect to leveraging capital assets; and

(3) Organizational, outreach and development assistance to increase the viability, growth and sustainability of businesses that produce value-added agricultural commodities or products.

§§ 4284.1005–1006 [Reserved]

§ 4284.1007 Eligibility for grant assistance.

Non-profit and for-profit corporations, institutions of higher learning and other entities, including a consortium where a lead entity has been designated and agrees to act as funding agent, that meet the following requirements are eligible for grant assistance:

(a) The entity—

(1) Has provided services similar to those listed for Producer Services; or

(2) Demonstrates the capability of providing Producer Services;

(b) The application includes a plan that meets the requirements of § 4284.1009(c)(5)(iv) that also outlines—

(1) The support for the entity in the agricultural community;

(2) The technical and other expertise of the entity;

(3) The goals of the entity for increasing and improving the ability of local agricultural producers to develop markets and processes for value-added agricultural commodities or products;

(c) The entity demonstrates that adequate resources (in cash or in kind) are available, or have been committed to be made available to the entity, to increase and improve the ability of local agricultural producers to develop markets and processes for value-added agricultural commodities or products; and

(d) The proposed Center has a Qualified Board of Directors.

§ 4284.1008 Use of grant funds.

Grant funds may be used to assist eligible recipients in establishing Centers that provide Producer Services and may only be used to support operations of the Center that directly relate to providing Producer Services. Grant funds may be used for the following purposes, subject to the limitations set forth in § 4284.10:

(a) Consulting services for legal, accounting and technical services to be used by the grantee in establishing and operating a Center;

(b) Hiring of employees, at the discretion of the Qualified Board of Directors;

(c) The making of matching grants to agricultural producers, individually not to exceed $5,000, where the aggregate amount of all such matching grants made by the grantee does not exceed $50,000;

(d) Applied research;

(e) Legal services; and

(f) Such other related purposes as the Agency may announce in the RFP.

§ 4284.1009 Application processing.

(a) *Applications.* USDA will solicit applications on a competitive basis by publication of one or more Requests for Proposals (RFPs). Unless otherwise specified in the applicable RFP, applicants must file an original and one copy of the required forms and a proposal.

(b) *Required forms.* The following forms must be completed, signed and submitted as part of the application package. Other OMB approved forms may be required. This will be published in the applicable RFP.

(1) ''Application for Federal Assistance.''

(2) ''Budget Information—Non-Construction Programs.''

(3) ''Assurances—Non-Construction Programs.''

(c) *Proposal.* Each proposal must contain the following elements. Additional elements may be published in the applicable RFP.

(1) Title page.

(2) Table of contents.

(3) Executive summary. A summary of the proposal should briefly describe the project including goals, tasks to be completed and other relevant information that provides a general overview of the project and the amount requested.

(4) Eligibility. A detailed discussion describing how the applicant meets the eligibility requirements.

(5) Proposal narrative. The narrative portion of the proposal must include, but is not limited to, the following:

(i) Project title. The title of the proposed project must be brief, not to exceed 75 characters, yet describe the essentials of the project.

(ii) Information sheet. A separate one page information sheet listing each of the evaluation criteria referenced in the RFP followed by the page numbers of all relevant material and documentation contained in the proposal that address or support the criteria.

(iii) Goals of the project. The first part of this section should list each Provider Service to be offered by the Center. The second part of this section should list one or more specific goals relating to increasing and improving the ability of identified local agricultural producers to develop a market or process for value-added agricultural commodities or products.

(iv) Work plan. Actions that must be taken in order for the Provider Services to be available from the Center. Each action listed should include a target date by which it will be completed. General start up tasks should be listed, followed by specific tasks listed for each Provider Service to be offered, as well as tasks associated with the start of operations. The tasks associated with the start of operations should include a focused marketing and delivery plan directed to the local agricultural producers that were identified in paragraph (c)(5)(iii) of this section. The actions to be taken should include steps for identifying customers, acquiring personnel and contracting for services to the Center, including arrangements for strategic alliances.

(v) Performance evaluation criteria. Performance criteria suggested by the applicant for incorporation in the grant award in the event the proposal receives grant funding under this subpart. These suggested criteria are not binding on USDA.

(vi) Agricultural community support. Evidence of support from the local agricultural community should be included in this section. Letters in support should reflect that the writer is familiar with the provisions of the Plan for the Center, including the stated goals. Evidence of support can take the form of making employees available to the Center, service as a board member and other in-kind contributions.

(vii) Strategic coordination and alliances. Describe arrangements in place or planned with end users (processing and distribution companies and regional grocers) as well as arrangements with entities having technical research capabilities, broad support from the agricultural community in the State or region, significant coordination with end users (processing and distribution companies and regional grocers), strategic alliances with entities having technical research capabilities and a focused delivery plan for reaching out to the producer community.

(viii) Capacity. Evidence of the ability of the grantee(s) to successfully establish and operate a Center. A description of the grantee's track record in providing services similar to those listed for Producer Services or evidence that the entity has the capability to provide Producer Services. Resumes of key personnel should be included in this section. Past successes should be described in detail, with a focus on lessons learned, best practices, familiarity with producer problems in value-added ventures, and how these barriers are best overcome should be elaborated on in this section. For every challenge identified, the applicant should demonstrate how they are addressed in the Work Plan (see paragraph (c)(5)(iv) of this section). All successes should include a monetary estimate of the value-added achieved.

(ix) Legal structure. Provide a description of the legal relationship between the grantee(s) and the proposed Center. If the Center is to be an independent corporate entity, provide copies of the corporate charter, bylaws and other relevant organizational documents. Describe how funds for the Center will be handled and include copies of the agreements documenting the legal relationships between the Center and related parties. If the Center is not to be an independent legal entity, provide copies of the corporate governance documents that describe how members of the Board of Directors for the Center are to be determined.

(x) Evaluation criteria. Each of the evaluation criteria referenced in the RFP must be specifically and individually addressed in narrative form. Supporting documentation, as applicable, should be included in this section, or a cross reference to other sections in the application should be provided, as applicable.

(xi) Verification of adequate resources. Present a budget to support the work plan showing sources and uses of funds during the start up period prior to the start of operations and for the first year of full operations. Present a copy of a bank statement evidencing sources of funds equal to amounts required in excess of the grant requested, or, in the alternative, a copy of confirmed funding commitments from credible sources such that USDA is satisfied that the Center has adequate resources to complete a full year of operation. Include information sufficient to facilitate verification by USDA of all representations.

(xii) Certification of adequate resources. Applicants must certify that non-Federal funds identified in the budget pursuant to paragraph (c)(5)(xi) of this section will be available and funded commensurately with grant funds.

§ 4284.1010 Evaluation screening.

The Agency will conduct an initial screening of all proposals to determine whether the applicant is eligible and whether the application is complete and sufficiently responsive to the requirements set forth in the applicable RFP so as to allow for an informed review. Incomplete or non-responsive applications will not be evaluated further, and may be returned to the applicant. Applicants may revise their applications and re-submit them prior to the published deadline if there is sufficient time to do so.

§ 4284.1011 Evaluation process.

(a) Applications will be evaluated by qualified reviewers appointed by the Agency.

(b) After all proposals have been evaluated using the evaluation criteria and scored in accordance with the point allocation specified in the applicable RFP, Agency officials will present to the Administrator of RBS a list of all applications in rank order, together with funding level recommendations.

(c) The Administrator reserves the right to award additional points, as specified in the applicable RFP, to accomplish agency objectives (*e.g.*, to ensure geographic distribution, put emphasis on a specific commodity, or to accomplish presidential initiatives.) The maximum number of points that can be added to an application under this paragraph cannot exceed ten percent of the total points the application originally scored.

(d) After giving effect to the Administrator's point awards, applications will be funded in rank order until all available funds have been obligated.

§ 4284.1012 Evaluation criteria and weights.

Unless supplemented in a RFP, the criteria listed in this section will be used to evaluate grants under this subpart. The distribution of points to be awarded per criterion will be identified in the applicable RFP.

(a) *Ability to deliver.* The application will be evaluated as to whether it evidences unique abilities to deliver Producer Services so as to create sustainable value-added ventures. Abilities that are transferable to a wide range of agricultural value-added commodities are preferred over highly specialized skills. Strong skills must be accompanied by a credible and thoughtful plan.

(b) *Successful track record.* The applicant's track record in achieving value-added successes.

(c) *Work plan/Budget.* The work plan will be reviewed for detailed actions and an accompanying timetable for implementing the proposal. Clear, logical, realistic and efficient plans will result in a higher score. Budgets will be reviewed for completeness and the strength of non Federal funding commitments.

(d) *Qualifications of personnel.* Proposals will be reviewed for whether the key personnel who are to be responsible for performing the proposed tasks have the necessary qualifications and whether they have a track record of performing activities similar to those being proposed. If a consultant or others are to be hired, points may be awarded for consultants only if the proposal includes evidence of their availability and commitment as well. Proposals using in-house employees with strong track records in innovative activities will receive higher points relative to proposals that out-source expertise.

(e) *Local support.* Proposed Centers must show local support and coordination with other developmental organizations in the proposed service area and with state and local institutions. Support documentation should include recognition of rural values that balance employment opportunities with environmental stewardship and other rural amenities. Proposed Centers that show strong support from potential beneficiaries and coordination with other developmental organizations will receive more points than those not evidencing such support.

(f) *Future support.* Applicants that can demonstrate financial independence in future years will receive more points for this criterion. Points will be awarded only where future funding sources are documented by letters of commitment.

§ 4284.1013 Grant closing.

(a) *Letter of conditions.* The Agency will notify an approved applicant in writing, setting out the conditions under which the grant will be made.

(b) *Applicant's intent to meet conditions.* Upon reviewing the conditions and requirements in the letter of conditions, the applicant must complete, sign and return the Agency's ''Letter of Intent to Meet Conditions,'' or, if certain conditions cannot be met, the applicant may propose alternate conditions to the Agency. The Agency must concur with any changes proposed to the letter of conditions by the applicant before the application will be further processed.

(c) *Grant agreement.* The Agency and the grantee must enter into an ''Agriculture Innovation Center Grant Agreement'' prior to the advance of funds.

§§ 4284.1014–4284.1100 [Reserved]

5. Subpart F of part 4284, consisting of §§ 4284.501 through 4284.600 is revised to read as follows:

Subpart F—Rural Cooperative Development Grants

Sec.

4284.501 Purpose.
4284.502 Policy.
4284.503 Program administration
4284.504 Definitions.
4284.505–506 [Reserved]
4284.507 Eligibility for grant assistance.
4284.508 Use of grant funds.
4284.509 Limitations on grants.
4284.510 Application processing.
4284.511 Evaluation screening.
4284.512 Evaluation process.
4284.513 Evaluation criteria and weights.
4284.514 Grant closing.
4284.515–4284.599 [Reserved]
4284.600 OMB control number.

§ 4284.501 Purpose.

This subpart outlines the Agency's polices and procedures for making grants for cooperative development in rural areas.

§ 4284.502 Policy.

Rural cooperative development grants will be used to facilitate the creation or retention of jobs in rural areas through the development of new rural cooperatives, Value-Added processing and rural businesses.

§ 4284.503 Program administration.

The rural cooperative development grant program is administered by Cooperative Services within the Agency.

§ 4284.504 Definitions.

Center—The entity established or operated by the grantee for rural cooperative development. It may or may not be an independent legal entity separate from the grantee.

Cooperative development—The startup, expansion or operational improvement of a cooperative to promote development in rural areas of services and products, processes that can be used in the marketing of products, or enterprises that create value-added to farm products through processing or marketing activities. Development activities may include, but are not limited to, technical assistance, research services, educational services and advisory services. Operational improvement includes making the cooperative more efficient or better managed.

1994 Institutions—means those colleges identified as such for purposes of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note). Contact the Agency for a list of currently eligible colleges.

Project—A planned undertaking by a Center that utilizes the funds provided to it to promote economic development in rural areas through the creation and enhancement of cooperatives.

§ 4284.505–506 [Reserved]

§ 4284.507 Eligibility for grant assistance.

Grants may be made to Nonprofit corporations and institutions of higher education. Grants may not be made to Public bodies.

§ 4284.508 Use of grant funds.

Grant funds may be used to pay up to 75 percent (95 percent where the grantee is a 1994 Institution) of the cost of establishing and operating centers for rural cooperative development. Matching funds contributed by the applicant may include a loan from another federal source. Grant funds may be used for, but are not limited to, providing the following to individuals, cooperatives, small businesses and other similar entities in Rural areas served by the Center:

(a) Applied research, feasibility, environmental and other studies that may be useful for the purpose of cooperative development.

(b) Collection, interpretation and dissemination of principles, facts, technical knowledge, or other information for the purpose of cooperative development.

(c) Providing training and instruction for the purpose of cooperative development.

(d) Providing loans and grants for the purpose of cooperative development in accordance with the subpart.

(e) Providing technical assistance, research services and advisory services for the purpose of cooperative development.

§ 4284.509 Limitations on grants.

Grants made pursuant to this subpart shall be for one year or less.

§ 4284.510 Application processing.

(a) *Applications.* USDA will solicit applications on a competitive basis by publication of one or more Requests for Proposals (RFPs). Unless otherwise specified in the applicable RFP, applicants must file an original and one hard copy of the required forms and a proposal.

(b) *Required forms.* The following forms must be completed, signed and submitted as part of the application package. Other forms may be required. This will be published in the applicable RFP.

(1) ''Application for Federal Assistance''

(2) ''Budget Information—Non-Construction Programs''

(3) ''Assurances—Non-Construction Programs''

(c) *Proposal.* Each proposal must contain the following elements. Additional elements may be published in the applicable RFP.

(1) Title page.

(2) Table of contents.

(3) Executive summary. A summary of the proposal should briefly describe the Center, including goals and tasks to be accomplished, the amount requested, how the work will be performed and whether organizational staff, consultants or contractors will be used.

(4) Eligibility. A detailed discussion describing how the applicant meets the eligibility requirements.

(5) Proposal narrative. The narrative portion of the proposal must include, but is not limited to, the following:

(i) Project title. The title of the proposed project must be brief, not to exceed 75 characters, yet describe the essentials of the project.

(ii) Information sheet. A separate one-page information sheet listing each of the evaluation criteria referenced in the RFP, followed by the page numbers of all relevant material and documentation contained in the proposal that address or support the criteria.

(iii) Goals of the project. This section must include the following:

(A) A provision that substantiates that the Center will effectively serve rural areas in the United States;

(B) A provision that the primary objective of the Center will be to improve the economic condition of rural areas through cooperative development;

(C) A description of the contributions that the proposed activities are likely to make to the improvement of the economic conditions of the rural areas for which the Center will provide services.

(D) Provisions that the Center, in carrying out the activities, will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the Federal Government, and State and local governments.

(iv) Work plan. Applicants must discuss the specific tasks to be completed using grant and matching funds. The work plan should show how customers will be identified, key personnel to be involved, and the evaluation methods to be used to determine the success of specific tasks and overall objectives of Center operations. The budget must present a breakdown of the estimated costs associated with cooperative development activities as well as the operation of the Center and allocate these costs to each of the tasks to be undertaken. Matching funds as well as grant funds must be accounted for in the budget.

(v) Performance evaluation criteria. Performance criteria suggested by the applicant for incorporation in the grant award in the event the proposal receives grant funding under this subpart. These suggested criteria are not binding on USDA.

(vi) Undertakings. The applicant should expressly undertake to do the following:

(A) Take all practicable steps to develop continuing sources of financial support for the Center, particularly from sources in the private sectors;

(B) Make arrangements for the activities by the nonprofit institution operating the Center to be monitored and evaluated; and

(C) Provide an accounting for the money received by the grantee under this subpart.

(vii) Delivery of Cooperative development assistance. The applicant must describe its previous accomplishments and outcomes in Cooperative development activities and/or its potential for effective delivery of Cooperative development services to rural areas. The applicant should also describe the type(s) of assistance to be provided, the expected impacts of that assistance, the sustainability of cooperative organizations receiving the assistance, and the transferability of its Cooperative development strategy and focus to other areas of the U.S.

(viii) Qualifications of personnel. Applicants must describe the qualifications of personnel expected to perform key center tasks, and whether these personnel are to be full/part-time center employees or contract personnel. Those personnel having a track record of positive solutions for complex Cooperative development or marketing problems, or those with a record of conducting feasibility studies that later proved to be accurate, business planning, marketing analysis, or other activities relevant to the Center's success should be highlighted.

(ix) Support and commitments. Applicants must describe the level of support and commitment in the community for the proposed Center and the services it would provide. Plans for coordinating with other developmental organizations in the proposed service area, or with state and local government institutions should be included. Letters supporting cooperation and coordination from potential local customers should be provided.

(x) Future support. Applicants should describe their vision for Center operations beyond the first year, including issues such as sources and uses of alternative funding; reliance on Federal, state, and local grants; and the use of in-house personnel for providing services versus contracting out for that expertise. To the extent possible, applicants should document future funding sources that will help achieve long-term sustainability of the Center.

(xi) Evaluation criteria. Each of the evaluation criteria referenced in the RFP must be specifically and individually addressed in narrative form.

(6) Verification of matching funds. Applicants must provide a budget to support the work plan showing all sources and uses of funds during the project period. Applicants will be required to verify matching funds, both cash and in-kind. Sufficient information should be included such that USDA can verify all representations.

(7) Certification. Applicants must certify that matching funds will be available at the same time grant funds are anticipated to be spent and that matching funds will be spent in advance of grant funding, such that for every dollar of grant that is advanced, not less than an equal amount of match funds will have been funded prior to submitting the request for advance.

§ 4284.511 Evaluation screening.

The Agency will conduct an initial screening of all proposals to determine whether the applicant is eligible and whether the application is complete and sufficiently responsive to the requirements set forth in the applicable RFP so as to allow for an informed review. Incomplete or non-responsive applications will not be evaluated further. Applicants may revise their applications and re-submit them prior to the published deadline if there is sufficient time to do so.

§ 4284.512 Evaluation process.

(a) Applications will be evaluated by qualified reviewers appointed by the Agency.

(b) After all proposals have been evaluated using the evaluation criteria and scored in accordance with the point allocation specified in the applicable RFP, the Agency will present to the Administrator of RBS a list of all applications in rank order, together with funding level recommendations.

§ 4284.513 Evaluation criteria and weights.

Unless supplemented in a RFP, the criteria listed in this section will be used to evaluate grants under this subpart. Preference will be given to items in paragraphs (a) through (f). The distribution of points to be awarded per criterion will be identified in the applicable RFP.

(a) *Administrative capabilities.* The application will be evaluated to determine whether the subject Center has a track record of administering a nationally coordinated, regional or statewide operated project. Centers that have capable financial systems and audit controls, personnel and program administration performance measures and clear rules of governance will receive more points than those not evidencing this capacity.

(b) *Technical assistance and other services.* The Agency will evaluate the applicant's demonstrated expertise in providing technical assistance in Rural areas.

(c) *Economic development.* The Agency will evaluate the applicant's demonstrated ability to assist in the retention of businesses, facilitate the establishment of cooperatives and new cooperative approaches and generate employment opportunities that will improve the economic conditions of Rural areas.

(d) *Linkages.* The Agency will evaluate the applicant's demonstrated ability to create horizontal linkages among businesses within and among various sectors in rural areas of the United States and vertical linkages to domestic and international markets.

(e) *Commitment.* The Agency will evaluate the applicant's commitment to providing technical assistance and other services to underserved and economically distressed areas in Rural areas of the United States.

(f) *Matching Funds.* All applicants must demonstrate Matching Funds equal to at least 25 percent (5 percent for 1994 Institutions) of the grant amount requested. Applications exceeding these minimum commitment levels will receive more points.

(g) *Delivery.* The Agency will evaluate whether the Center has a track record in providing technical assistance in Rural areas and accomplishing effective outcomes in Cooperative development. The Center's potential for delivering effective Cooperative development assistance, the expected effects of that assistance, the sustainability of cooperative organizations receiving the assistance, and the transferability of the Center's Cooperative development strategy and focus to other States will also be assessed.

(h) *Work plan/Budget.* The work plan will be reviewed for detailed actions and an accompanying timetable for implementing the proposal. Clear, logical, realistic and efficient plans will result in a higher score. Budgets will be reviewed for completeness and the quality of non Federal funding commitments.

(i) *Qualifications of those performing the tasks.* The application will be evaluated to determine if the personnel expected to perform key center tasks have a track record of positive solutions for complex Cooperative development or marketing problems, or a successful record of conducting accurate feasibility studies, business plans, marketing analysis, or other activities relevant to Cooperative development center success.

(j) *Local support.* Applications will be reviewed for previous and expected local support for the Center, plans for coordinating with other developmental organizations in the proposed service area and coordination with state and local institutions. Support documentation should include recognition of rural values that balance employment opportunities with environmental stewardship and other positive rural amenities. Centers that demonstrate strong support from potential beneficiaries and formal evidence of the Center's intent to coordinate with other developmental organizations will receive more points than those not evidencing such support and formal intent.

(k) *Future support.* Applications that demonstrate financial independence beyond the year for which grant funding is sought will receive more points for this criterion. Points will be awarded only where future funding sources are documented by letters of commitment.

(l) *Amount requested.* Points may be awarded based on the size of the grant request. Lower requested amounts will receive more points. The points to be awarded and request ranges will be established in the applicable RFP.

§ 4284.514 Grant closing.

(a) *Letter of Conditions.* The Agency will notify an approved applicant in writing, setting out the conditions under which the grant will be made.

(b) *Applicant's intent to meet conditions.* Upon reviewing the conditions and requirements in the letter of conditions, the applicant must complete, sign and return the Agency's ''Letter of Intent to Meet Conditions,'' or, if certain conditions cannot be met, the applicant may propose alternate conditions to the Agency. The Agency must concur with any changes proposed to the letter of conditions by the applicant before the application will be further processed.

(c) *Grant agreement.* The Agency and the grantee must enter into the Agency's ''Agriculture Innovation Center Grant Agreement'' prior to the advance of funds.

§§ 4284.515–4284.599 [Reserved]

§ 4284.600 OMB control number.

The reporting and recordkeeping requirements contained in this subpart have been approved by the Office of Management and Budget and have been assigned OMB control number 0570–0006 in accordance with the Paperwork Reduction Act of 1995.

PART 1951—SERVICING AND COLLECTIONS

6. The authority citation for part 1951 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1932 Note; 7 U.S.C. 1989; 31 U.S.C. 3716; 42 U.S.C. 1480.

7. Revise § 1951.201 to read as follows:

Subpart E—Servicing of Community and Direct Business Programs Loans and Grants

§ 1951.201 Purposes.

This subpart prescribes the Rural Development mission area policies, authorizations and procedures for servicing the following programs: Water and Waste Disposal System loans and grants, Community Facility loans and grants, Rural Business Enterprise/Television Demonstration grants; loans for Grazing and other shift-in-land-use projects; Association Recreation loans; Association Irrigation and Drainage loans; Watershed loans and advances; Resource Conservation and Development loans; Direct Business loans; Economic Opportunity Cooperative loans; Rural Renewal loans; Energy Impacted Area Development Assistance Program grants; National Nonprofit Corporation grants; Water and

Waste Disposal Technical Assistance and Training grants; Emergency Community Water Assistance grants; System for Delivery of Certain Rural Development Programs panel grants; section 306C WWD loans and grants; and, in part 4284 of this title, Rural and Cooperative Development Grants, Value-Added Producer Grants and Agriculture Innovation Center Grants. Rural Development State Offices act on behalf of the Rural Utilities Service, the Rural Business-Cooperative Service and the Farm Service Agency as to loan and grant programs formerly administered by the Farmers Home Administration and the Rural Development Administration. Loans sold without insurance to the private sector will be serviced in the private sector and will not be serviced under this subpart. The provisions of this subpart are not applicable to such loans. Future changes to this subpart will not be made applicable to such loans.

Dated: June 5, 2003.

Thomas C. Dorr,

Under Secretary, Rural Development.

[FR Doc. 03–14840 Filed 6–12–03; 8:45 am]

BILLING CODE 3410–XY–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice of intent to grant the Nonmanufacturer Rule for Other Ordnance and Accessories Manufacturing.

SUMMARY: The U.S. Small Business Administration (SBA) is considering granting a waiver of the Nonmanufacturer Rule for Other Ordnance and Accessories Manufacturing. The basis for waivers is that no small business manufacturers are supplying these classes of products to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses or awarded through the SBA 8(a) Program. The purpose of this notice is to solicit comments and potential source information from interested parties.

DATES: Comments and sources must be submitted on or before June 25, 2003.

Address Comments to: Edith Butler, Program Analyst, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416, Tel: (202) 619–0422.

FOR FURTHER INFORMATION CONTACT: Edith Butler, Program Analyst, (202) 619–0422 FAX (202) 205–7280.

SUPPLEMENTARY INFORMATION: Public Law 100–656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set aside for small businesses or SBA 8(a) Program procurement must provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 303(h) of the law provides for waiver of this requirement by SBA for any ''class of products'' for which there are no small business manufacturers or processors in the Federal market.

To be considered available to participate in the Federal market on these classes of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on six digit North American Industry Classification System (NAICS) and the four digit Product and Service Code established by the Federal Procurement Data System.

The U.S. Small Business Administration is currently processing a request to waive the Nonmanufacturer Rule for Other Ordnance and Accessories Manufacturing, North American Industry Classification System (NAICS) 332995. The public is invited to comment or provide source information to SBA on the proposed waiver of the nonmanufacturer rule for this NAICS code.

Barry Meltz,

Deputy Associate Administrator, Office of Government Contracting.

[FR Doc. 03–14851 Filed 6–12–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice of intent to grant the Nonmanufacturer Rule for Small Arms Manufacturing.

SUMMARY: The U. S. Small Business Administration (SBA) is considering granting a waiver of the Nonmanufacturer Rule for Small Arms Manufacturing. The basis for waivers is that no small business manufacturers are supplying these classes of products to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses or awarded through the SBA 8(a) Program. The purpose of this notice is to solicit comments and potential source information from interested parties.

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The U.S. Small Business Administration is currently processing a request to waive the Nonmanufacturer Rule for Small Arms Manufacturing, North American Industry Classification System (NAICS) 332994. The public is invited to comment or provide source

information to SBA on the proposed waiver of the nonmanufacturer rule for this NAICS code.

Barry Meltz,

Deputy Associate Administrator, Office of Government Contracting.

[FR Doc. 03–14850 Filed 6–12–03; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM81; Notice No. 25–03–04–SC]

Special Conditions: Boeing Model 777 Series Airplanes; Revision to Special Conditions 25–ANM–84

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes to revise Special Conditions 25–ANM–84, applicable to Boeing Model 777 series airplanes. The proposed special conditions revise the extended range operations with two-engine airplanes (referred to as ''ETOPS'') test requirements defined in the existing special conditions. These revisions include changing the airplane demonstration test requirement from a required 1000 flight cycles to a demonstration of capability in ETOPS flight conditions, and allowing more than one airplane to be used for the airplane demonstration test. In addition, the FAA proposes to add post-test inspection requirements for both the engine demonstration test and the airplane demonstration test articles.

DATES: Comments must be received on or before July 28, 2003.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM81, 1601 Lind Avenue, SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM81. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Steve Clark, FAA, ETOPS Project Manager, Seattle Aircraft Certification Office, Propulsion Branch, ANM–140S, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, 98055–4056; telephone (425) 917–6496; facsimile (425) 227–1180.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

Because of concerns over engine and airplane reliability, for many years, 14 CFR 121.161 has generally prohibited operations of two-engine airplanes on routes including segments that are more than one hour flight time from a suitable airport. This regulation contains an exception that allows such operations when specifically authorized by the Administrator. These extended range operations with two-engine airplanes are referred to as ETOPS. Advisory Circular (AC) 120–42A describes a method for obtaining ETOPS authorization if an operator can demonstrate sufficient engine and airplane reliability. This method is based on a combination of various design features and operational and maintenance procedures. The AC states that eligibility for 120-minute ETOPS authorization is normally based on a showing of reliable operation for a minimum of 250,000 engine hours of service in the world fleet. Eligibility for 180-minute ETOPS authorization is normally based on a showing of reliable operation for at least one year in 120-minute ETOPS. The AC also describes an option for reducing the number of hours of service if adequate compensating factors are identified to give a reasonably equivalent database.

On May 18, 1994, the FAA issued Special Conditions Number 25–ANM–84 for the Boeing Model 777 airplane (59 FR 28234). These special conditions define requirements for 180-minute ETOPS approval concurrent with basic type certification of the airplane without the service experience outlined in AC 120–42A that would normally be necessary. These special conditions define additional safety standards that the FAA considered necessary to establish a level of safety equivalent to that provided by the airworthiness standards for non-ETOPS airplanes.

The current 777 ETOPS special conditions consist of five main elements needed to provide adequate compensation for the service experience normally required for 180-minute ETOPS eligibility described in AC 120–42A. No single element is considered sufficient by itself, but the FAA has found that the five elements combined provide an acceptable substitute for actual airline service experience. The five elements are:

1. Design for reliability.
2. Lessons learned.
3. Test requirements.
4. Demonstrated reliability.
5. Problem tracking system.

A description of each of these five elements is contained in the preamble to the 777 ETOPS special conditions.

On December 13, 1999, Boeing Commercial Airplane Group applied for an amendment to Type Certificate No. T00001SE to include the new Model No. 777–200LR and 777–300ER airplanes. The Model No. 777–200LR, which is a derivative version of the existing Model 777–200 series airplanes, has the following differences from the 777–200:

- The wingspan is increased from 199 feet, 11 inches to 212 feet, 7 inches.
- Maximum intended takeoff weight is 750,000 pounds.
- It is capable of carrying from 301 to 440 passengers.
- It has provisions for overhead crew and attendant rest areas.
- Its range capability will be up to 8,800 nautical miles (16,298 kilometers).
- It has 110,100 pounds thrust GE90 engines.
- It has a supplemental electronic tail skid.
- It has provisions for up to 3 auxiliary fuel tanks in the forward area of the aft cargo bay.

The 777–300ER, which is a derivative of the Model 777–300 airplanes, has the following differences from the Model 777–300:

- The wingspan is increased from 199 feet, 11 inches to 212 feet, 7 inches.
- Maximum intended takeoff weight is 750,000 pounds.
- It is capable of carrying from 359 to 550 passengers.
- It has provisions for overhead crew and attendant rest areas.
- Its range capability will be up to 7,250 nautical miles (13,427 kilometers).
- It has 115,300 pound thrust GE90 engines.
- It has a supplemental electronic tail skid.
- It has a semi-levered main landing gear.

Both models are currently approved under Type Certificate No. T00001SE.

For the Model 777–300ER and Model 777–200LR, Boeing has proposed certain changes to the ETOPS special conditions in order to take into account the experience from the original baseline Model 777 engine programs and to eliminate any unnecessary burden from the airplane demonstration testing required by paragraph (e)(7) of those special conditions.

Type Certification Basis

Under the provisions of § 21.101, Amendment 21–69, effective September 16, 1991, for a change to a type certificate Boeing must show that the Boeing Model 777 series airplane, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. T00001SE or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate No. T00001SE for the Boeing Model 777 series airplanes include 14 CFR part 25, as amended by Amendments 25–1 through 25–82. The original type certification basis is listed in Type Certificate Data Sheet No. T00001SE.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model 777 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, Boeing Model 777 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with § 21.101(b)(2), Amendment 21–69, effective September 16, 1991.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

ETOPS Certification

All two-engine airplanes operating under 14 CFR part 121 are required to comply with § 121.161, which states, in pertinent part, that ''Unless authorized by the Administrator * * * no certificate holder may operate two-engine airplanes * * * over a route that contains a point farther than one hour flying time * * * from an adequate airport.'' Advisory Circular (AC) 120–42A, ''Extended Range Operation With Two-Engine Airplanes (ETOPS),'' provides an acceptable means for obtaining FAA approval for two-engine airplanes to operate over a route that contains a point farther than one hour flying time from an adequate airport. The two basic objectives of this advisory circular are to establish that the airplane and its supporting systems are suitable for the extended range mission and that the maintenance and procedures to be employed in conducting ETOPS operations are adequate. This is accomplished by acquiring a substantial amount of service experience during non-ETOPS operation and then extensively evaluating this experience in the areas of systems reliability, maintenance tasks, and operating procedures. When it is determined that the appropriate reliabilities and capabilities have been achieved, the airplane is found eligible to be considered for use in ETOPS operation by an airline.

When Boeing was developing the Model 777 series airplane, it proposed that the Model 777 be approved for ETOPS operation simultaneously with the issuance of the basic type certificate. At that time procedures did not exist for a finding of this type. The proposed issuance of ETOPS type design approval at certification would have precluded using accumulation of service experience, as outlined in AC 120–42A, as a means to meet ETOPS approval requirements. So an alternative method was devised that provided an adequate level of inherent airplane reliability for ETOPS. It is important to note that the requirements for certification of the airplane regarding the design's suitability for ETOPS operation, as described in those special conditions, relate to type certification approval only. Advisory Circular 120–42A contains guidance regarding operational and maintenance practices criteria that must be met by the operator before ETOPS operations can be conducted. It is incumbent upon the operator to apply for operational approval in accordance with appropriate guidance issued by the FAA for such approvals. Satisfaction of the requirements of these special conditions does not constitute operational approval.

Special Conditions 25–ANM–84 contained the additional safety standards that the Administrator considered necessary to establish a level of safety equivalent to that provided by the airworthiness standards for transport category airplanes for non-ETOPS airplanes. Experience with these special conditions since issuance has provided the FAA with additional data to justify a revision to those special conditions as described in this notice.

Discussion of the Proposed Special Conditions

Boeing has requested the FAA to revise certain parts of the test requirements of Special Conditions 25–ANM–84 defined in paragraph (e). The FAA has concurred that some changes are justified based on an analysis of previous experience applying those special conditions to the original three engine types approved for installation on the Model 777 airplane. The specific changes to those requirements and the justification for each proposed change are discussed below.

Paragraph (e)(6) Engine Demonstration Test

The FAA has concluded from a review of in-service experience of the Model 777 series airplanes that the 3000-cycle engine and propulsion system test required by paragraph (e)(6) of Special Conditions 25–ANM–84 provides an adequate opportunity to discover cyclic-related failure modes associated with the design, provided that an adequate post-test evaluation is conducted to find conditions that could result in an inflight shutdown, power

loss, or inability to control engine thrust. An FAA review of the test data from the 3000-cycle tests for the three original engine types installed on the Model 777 series airplanes has shown that most of the early in-service 777 engine failure modes could have been discovered had Boeing and the engine manufacturers conducted a more thorough teardown inspection and analysis of the 3000-cycle test engine and propulsion system hardware. Part conditions noted in the teardown inspection reports for the three baseline 777 engine types did later occur in service, and they resulted in engine inflight shutdowns or airplane diversions. Because the specific condition of those 3000-cycle test parts had been characterized as minor deviations from normal however, no specific investigations into how they might progress in service had been required as a prerequisite for ETOPS approval.

Special Conditions 25–ANM–84 currently do not require a post-test teardown inspection. However, all three engine companies, in cooperation with Boeing, conducted post-test teardown inspections on the original baseline engines installed on the Model 777 series airplanes based on their own experience of what would constitute an adequate evaluation. In order to provide a consistent standard for a post-test evaluation of the 3000-cycle test hardware, the FAA is proposing a change to paragraph (e)(6) to require a complete teardown inspection of the engine and airplane nacelle test hardware after completion of the test. The inspection must include an analysis of any abnormal conditions found. The analysis must consider the possible consequences of similar occurrences in service to determine if they might become sources of engine inflight shutdowns, power loss, or inability to control engine thrust. The intent of this change to paragraph (e)(6) is to require further design analysis to catch potential sources of engine inflight shutdowns or diversions.

For similar reasons, we are proposing to add a new subparagraph (e)(7)(v) to require a post-test external and internal visual inspection of the airplane demonstration test engines and propulsion system hardware. An analysis of the inspection results must identify any potential sources of engine inflight shutdown. Appropriate corrective actions must be performed in accordance with the provisions of the special conditions.

Boeing proposed to delete the word *complete* from the description of the airplane nacelle package required for the 3000-cycle test. The rationale for this proposed change was that without the term *complete,* it is still understood that the test is intended to be a propulsion system test inclusive of the engine buildup items, but some allowance is made for configuration differences necessary to accommodate the test setup. The FAA is concerned that, without this qualifier, it is not clear what nacelle hardware must be installed for this test. It could be misinterpreted in such a way that, for instance, a functioning thrust reverser need not be installed. Therefore, the FAA has concluded that the word *complete* must remain in the requirement. However, we agree with Boeing that those configuration differences associated with test instrumentation and test stand interfaces with the engine nacelle package may be excluded, and we propose to add that qualification to the requirement in order to clarify this intent.

Paragraph (e)(7) Airplane Demonstration Test

Number of Test Airplanes: Boeing has proposed a change to paragraph (e)(7) to allow the use of more than one airplane to comply with the airplane demonstration test requirement (three test airplanes for the current Model 777–300ER program). Boeing's justification includes the argument that using multiple airplanes is an enhancement to the ETOPS validation program that takes into account airplane-to-airplane variation. The value of obtaining ETOPS data on multiple airplanes versus one is the increased sample size. The FAA agrees that increasing the number of test airplanes in the airplane demonstration test would provide a better evaluation of airplane-to-airplane variability. The limited experience obtained during the airplane demonstration test program is not really sufficient to evaluate end-of-life wear-out failure modes, so accumulating all of the time and cycles on one airplane is not really necessary. The main program schedule benefit from using multiple flight test airplanes is that testing can be completed in a shorter period. The FAA is proposing a change to paragraph (e)(7) to require that one or more airplanes must complete the airplane demonstration test required by that paragraph.

Capability Demonstration vs. Reliability Demonstration: The 1000-cycle airplane demonstration test requirement was developed with the intent of exposing the airplane to the conditions where the greatest numbers of inflight shutdowns occur. Most inflight shutdowns occur during takeoff and climb. The failure modes associated with these takeoff- and climb-related shutdowns tend to be cyclic in nature for a couple of reasons.[1] For failure modes where the risk of failure increases with engine thrust, the takeoff portion of the flight is most critical. Failure modes that occur due to improper maintenance or engine servicing, for instance loss of engine oil due to improper assembly of an oil tube connection, also tend to occur early in the flight. A larger number of airplane flights increases the exposure to these types of failures. Therefore, the FAA considered a cyclic test to be the most appropriate airplane validation test for the original 777 ETOPS special conditions. However, as stated above, we now consider that the 3000-cycle engine and propulsion system test required by paragraph (e)(6) provides an adequate opportunity to discover cyclic-related failure modes associated with the design when the test hardware goes through an appropriate level of post-test teardown and inspection.

For inflight shutdowns where improper maintenance is a main causal factor, the 1000-cycle airplane demonstration test provides multiple opportunities for these types of failures to occur. However, the maintenance procedure validation program required by paragraph (d)(2) is intended to minimize the probability of these occurrences. The airplane demonstration test airplane provides opportunities to demonstrate those maintenance tasks associated with the normal operation of the airplane. The FAA considers that these demonstrations can be accomplished in fewer than 1000 cycles.

Although the fewest inflight shutdowns occur during cruise, this is the phase of flight that is most important to an ETOPS operation. Traditionally, the FAA and industry have avoided trying to differentiate between those inflight shutdowns that may occur during cruise from those that would only occur in a non-ETOPS environment. The main reason for this approach in existing ETOPS policy is that by correcting all causes of inflight shutdowns, the overall integrity of the propulsion system is assured. Since adequate cyclic exposure would be evaluated by an enhanced 3000-cycle engine demonstration test, as proposed for paragraph (e)(6) of these special

[1] Data provided to the Aviation Rulemaking Advisory Committee (ARAC) ETOPS Working Group confirm that the inflight shutdown rate during the takeoff flight phase is on the order of 6 to 16 times the fleet average inflight shutdown rate and during the climb phase is 2.5 to 4.5 times the fleet average.

conditions, the FAA has concluded that the airplane validation program should emphasize exposure to the cruise phase of flight. During the three 1000-cycle tests conducted for the original 777 engine installation certification programs, only 91 of the total 1000 cycles were of durations of two hours or more. Since the intent of paragraph (e)(7) is to simulate an actual airline operation, this would better be accomplished through longer duration flight cycles. Long duration flight exposure provides additional confidence in the design against those cruise-related failure modes that cannot be evaluated in a cyclic test environment. Such failure modes could include freezing of entrapped water condensation or binding of propulsion system components, neither of which would likely occur in a sea level test facility.

Based on these considerations, the FAA has determined that the airplane demonstration test requirement should be refocused on those conditions that are most prevalent in an ETOPS operating environment. Those conditions include long flights to a variety of airports with broad variations of airport elevation, temperature, and humidity. It is also important that these flights expose the airplane to several enroute climbs, such as may occur with a fully loaded 777–300ER on a long-range flight, and a number of single engine diversions. As such, the FAA proposes that the airplane demonstration test requirement of paragraph (e)(7) be revised to more clearly state the objectives of the test program. Those objectives include demonstrations that the aircraft, its components, and equipment are capable of and function properly during long-range operations and airplane diversions, including engine-inoperative diversions. This change in focus constitutes a significant departure from the original purpose of the 1000-cycle airplane demonstration test requirement, as discussed in the preamble to special conditions 25–ANM–84.

Reliability of 777

In order to further justify this change in philosophy for the airplane demonstration test requirement from being a demonstration of ''reliability'' to a demonstration of ''capability,'' the FAA reviewed the original intent of Special Conditions 25–ANM–84, as documented in the preamble to those special conditions. The purpose of this review was to assess whether the assumptions we made in justifying the special conditions are still valid, or whether they should be revised based on ETOPS certification experience since their issuance in June 1994.

In the preamble to Special Conditions 25–ANM–84, the FAA stated that: ''existing practices to achieve airplane certification safety objectives have involved definition of performance requirements, incorporation of safety margins, and prediction of failure probabilities through analysis and test. However, historical evidence, in general, indicates that a period of actual revenue service experience is necessary to identify and resolve problems not observed during the normal certification process. Successful achievement of this experience has been a prerequisite for granting ETOPS type design approval for a specific airplane engine combination. However, several recent airplane engine combinations incorporating new or substantially modified propulsion systems have demonstrated a high level of reliability consistent with ETOPS operation upon entry into revenue service. In addition, this high level of reliability was demonstrated by the small number of problems encountered during basic certification activity.'' Based on these successful airplane and engine development and certification programs, the special conditions were designed to ''result in a level of airplane reliability that is equivalent to the level of reliability previously found to be acceptable based upon service experience.''

The basic premise behind the engine and airplane demonstration tests required by paragraphs (e)(6) and (e)(7) of the special conditions was that those tests would provide a final validation of an ''inherent'' level of reliability that was the product of an enhanced design and test process. This is similar to the purpose of the function and reliability testing required by § 21.35(b)(2). The FAA's expectation for these tests was that no significant failures would occur. The probability of significant design failures occurring on a one-airplane flight test is so low that if any DO occur, that would be indicative of a design that is not suitable for ETOPS approval. This expectation is contained in the ''type and frequency'' requirement of special conditions paragraph (h)(1). Statistical reliability studies have shown that a much larger database would be required to validate a design's true reliability with a significant degree of confidence.

No major engine failures occurred during the 1000-cycle airplane demonstration tests for any of the three engine types certified on the Model 777 series airplane, although several engine design problems were discovered during other certification testing that affected the start and conduct of those tests. The Reliability Assessment Board (RAB) evaluated each of these design problems in compliance with paragraph (g) of the special conditions, and found the 777 to be suitable for ETOPS type design approval with the incorporation of corrective actions identified in Appendix 1 of the RAB final recommendation reports for the three engine types. There were hardware similarities between engines with the original certified thrust ratings and follow-on higher-thrust-rated engines, and the FAA certified each of those follow-on engine derivatives for ETOPS in consideration of those hardware similarities. The FAA accepted the original baseline engine test programs as showing compliance to the 3000-cycle propulsion system ground test and 1000-cycle airplane demonstration test requirements for the follow-on derivative engines. Although the 3000-cycle and 1000-cycle tests were not repeated for those follow-on derivative engines, Boeing and the engine companies completed reduced ground and flight test demonstrations tailored to the design changes being introduced in compliance with the ''Test Features'' requirement of special conditions paragraph (c)(4). Therefore, the follow-on engine derivatives are not included in this analysis of the 1000-cycle airplane demonstration test requirement.

The Boeing Model 777–200 series airplane powered by Pratt & Whitney PW4077 engines was approved for ETOPS on May 30, 1995 and entered service in June 1995. By all accounts, it was a very successful new model introduction. This was followed by ETOPS approval of the 777–200 powered by General Electric GE90–77B and Rolls-Royce RB211–Trent 877–17 engines in October 1996. The inflight shutdown (IFSD) rate for all three engine types was zero for at least the first year in service. The Pratt & Whitney PW4000 reached a peak 12-month rolling average engine IFSD rate of .018/1000 hours in October 1996. The General Electric GE90 reached a peak of .021 for one month in July 1998 and the Rolls-Royce Trent reached a peak of .016 in December 1997. Although the inflight shutdown rates stayed within the allowable .02/1000 hour standard for 180-minute ETOPS, significant design problems were discovered on each engine type after ETOPS approval.

During the first two years after ETOPS approval of each engine type on the Model 777 series airplanes, the FAA was concerned that the design problems being discovered may have indicated a failure of the early ETOPS process to identify those failure modes before they occurred in service. Some failure modes had the potential to result in inflight shutdowns had they occurred under different circumstances or had they not been detected during maintenance for

unassociated reasons. A summary of the actual problem reports for these inflight shutdowns and other events, which were submitted in compliance with paragraph (f) of these special conditions, is contained in Table 1. Had every one of those events resulted in an engine inflight shutdown, the resulting IFSD rates for each engine type would have been significantly higher. Boeing, the engine manufacturers, the FAA, and other regulatory authorities worked together to prevent additional inflight occurrences of these failure types. The actual inflight shutdown rates prove that these early in-service problems were successfully managed to maintain the safety of 777 ETOPS operations worldwide.

TABLE 1

Date occurred	EE–1 #	Engine type	Affected system	Event description
10/1/1995	101	PW	ENGINE—OIL PUMP.	Airplane diversion due to low oil quantity. Engine not shut down, but oil quantity indication went to zero. Related to LP01 problem.
5/19/1996	179	PW	ENGINE	Takeoff aborted due to EGT exceedance. A loose B-nut was found on the PS3 line to the 2.95 bleed valve, which caused erratic operation.
5/30/1996	181	PW	ENGINE	Air turnback due to high oil consumption. Oil wetness noted and corrected from previous flights. Consumption continued to be high.
8/24/1996	233	PW	ENGINE	IFSD—Inflight shutdown due to low oil pressure indication. Plastic shipping cap was left in the LPO1 oil line during installation as part of fleet upgrade.
10/5/1996	254	PW	ENGINE	IFSD—Engine was shut down due to low oil quantity and low oil pressure. Loose main oil line at filter housing. Repeat of oil line shipping cap problem.
10/11/1996	261	PW	ENGINE	Air turnback. Engine experienced high vibration during cruise. Vibration indication exceeded EICAS ''Pop-up'' level at 4.06.
3/26/1997	385	PW	ENGINE	Twelve quarts of oil lost after a series of training flights due to a leak of an oil line to the fuel/oil cooler. Oil loss took place over approximately 3 hours of flight time.
2/24/1997	G–65	GE	ENGINE GEARBOX.	Air turnback due to loss of right backup generator followed by engine oil filter EICAS message. Root cause was a failed gearbox backup generator pad bearing.
11/4/1997	G–84	GE	ENGINE	IFSD—Engine experienced a power loss during approach. A restart attempt was unsuccessful. Root cause was a sticking bypass valve in the hydromechanical unit (HMU).
11/9/1997	G–87	GE	ENGINE	Flight crew heard a surge toward the end of the takeoff roll and tower reported seeing flames from the engine. At 600 feet, the engine surged again. The flight crew reduced power and returned to the airport.
3/12/1998	G–96	GE	ENGINE	Pilot heard a bang and a tower reported fire from the tailpipe after power was set for takeoff. The takeoff was aborted. Metal was found in the tailpipe.
6/22/1998	G–108	GE	ENGINE	IFSD—After takeoff, the pilot received low oil pressure and low oil quantity indications. The pilot shut down the engine. Two of four oil filter cover bolts were loose due to inserts pulling out of the filter housing casting.
7/1/1998	G–110	GE	ENGINE	IFSD—Uncommanded engine inflight shutdown during cruise at flight level 370. Flight crew noted a rapid loss of oil pressure and N2. Root cause was a Number 3 bearing failure.
7/22/1998	G–112	GE	ENGINE	IFSD—During cruise, EICAS indication of low oil quantity. Pilot shut down the engine. Oil filter housing cover bolts were over-torqued resulting in stripped threads in the oil filter housing inserts.
11/20/1998	G–120	GE	IDG installation	IFSD—Crew started return to departure airport due to indication of complete oil loss. Engine was subsequently shut down when oil pressure dropped to 10 psi. The integrated drive generator (IDG) packing was damaged during installation.
10/11/1996	R–63	RR	ENGINE—RADIAL DRIVE SHROUD.	Flight diverted after crew observed right engine oil quantity loss approx. 5 hours into flight. Found cracked upper radial drive shroud.
10/11/1996	R–64	RR	ENGINE—FUEL NOZZLE.	Fuel found leaking from Zone 2 during investigation of R–63 oil loss. Source of fuel leak was a cracked weld on the No. 24 fuel nozzle (top dead center).
10/25/1996	R–65	RR	ENGINE—RADIAL DRIVE SHROUD.	After engine shutdown at the gate, the right engine oil quantity indicated 9 qts. Upper radial drive shroud found cracked.
11/12/1996	R–67	RR	ENGINE	''ENGINE OIL PRESS R'' EICAS message displayed after landing. Engine shut down. Oil pump drive shaft found sheared.
1/26/1997	R–91	RR	ENGINE—STEP ASIDE GEARBOX.	Low oil quantity caused by crack in step aside gearbox housing approximately 4 to 5 inches long.
5/24/1997	R–109	RR	ENGINE	Engine was shut down on takeoff following high power surge. Subsequent borescope inspection revealed HPC rotor 1 blade failure caused by foreign object damage that was consistent with blade damage noted on 5/20/97 inspection.
7/7/1997	R–112	RR	ENGINE	Aircraft diversion caused by excessive oil leakage due to incorrectly installed lower bevel box O-ring seal following radial drive shaft replacement.
7/26/1997	—	RR	ENGINE	Aircraft diversion due to high oil consumption. Not related to step aside gearbox housing cracking problem.

TABLE 1—Continued

Date occurred	EE–1 #	Engine type	Affected system	Event description
9/16/1997	R–113	RR	ENGINE	IFSD—Engine shutdown at 400 feet after takeoff due to high- pressure compressor failure.

Reliability of 737NG

As part of the process of reviewing existing methods for ETOPS approval, the FAA also analyzed data from the initial in-service period for Boeing Models 737–600, 737–700, and 737–800 powered by CFM56–7 engines. As a group, these variants of the 737 were referred to as the 737 Next Generation, or ''737NG.'' Even though early ETOPS special conditions were not issued, the 737NG was chosen for this analysis because it followed an ETOPS approval process program that was very similar to what Boeing is proposing for the 777–300ER. Several months after entry into service, however, the 737NG did not exhibit an acceptable level of propulsion system reliability for ETOPS approval. Early ETOPS special conditions were intended to identify a design not suitable for ETOPS approval prior to type certification.

Boeing proposed in 1994, prior to the 777's type certification, that the 737NG be certified as an early ETOPS airplane in a manner similar to the 777, but without all of the testing required in the 777 special conditions. Since the success of the 777 program was still an unknown at the time of Boeing's request for the 737NG, the FAA did not agree to Boeing's proposed changes to the airplane demonstration test requirement. Early ETOPS special conditions for the 737NG were never issued. Even so, Boeing proceeded with those elements of the 777 special conditions that the company had proposed to accomplish. These included the relevant experience assessment, design requirements assessment, 3000-cycle propulsion system ground test, and enhanced problem reporting and resolution.

Although the FAA never issued special conditions for the 737NG program, we agreed that the elements from the 777 special conditions that Boeing did accomplish justified a reduction in the service experience normally required for ETOPS type design approval, as outlined in AC 120–42A. Boeing presented the following information in support of its request for a reduction in service experience required for ETOPS certification.

• ''Design involved lessons learned, similar to 777 Early ETOPS process.

• ''APU most thoroughly tested in Allied Signal history—more than 3000-cycle ground test, including hot/cold exposure.

• ''Propulsion system subjected to 3000-cycle ground test, intentionally unbalanced, with three 180-minute diversion cycles.

• ''Flight testing included a Southwest Airlines 50-cycle demonstration, using airline crews and maintenance. During the Function and Reliability testing, 61 ETOPS cycles were conducted with three single engine 180-minute diversions.

• ''A proposed ETOPS problem tracking and resolution system, similar to that used on the 777 that will remain in effect until the fleet attains 250,000 engine fleet hours.''

In its analysis of the 737NG approval process, the FAA noted that these program elements, at the time, had been accomplished with good results. The engines and airplane system had performed well during the test programs, with results comparable to the 777 test fleet (all engines). The in-service 737NG airplanes had achieved a 98.96% dispatch reliability rate after 45 days in service, better than any previous Boeing airplane. Boeing's proposal included an accumulation of 15,000 fleet engine hours of service experience before requesting ETOPS approval. At that time, there would be three airplanes with more than 1000 flight cycles, the total 737NG fleet would have accumulated more than 20,000 flight cycles, and the high-time airplane/engines would have more than 2000 flight cycles. During the 737 NG approval process, the FAA concurred with Boeing's proposal to require 15,000 hours of service experience based on the following:

• ''The FAA has agreed to the concept that ETOPS at entry into service can be achieved by appropriate design and testing as evidenced by the 777 special conditions, which have now been validated through actual service experience,

• ''The 737NG/CFM56–7B airframe/engine configuration is a derivative/evolution of the existing 737–300/400/500 which through extensive service experience has demonstrated exceptional reliability, and, is approved for 120-minute ETOPS,

• ''Except for the lack of a dedicated 1000-cycle ETOPS test program, design and testing of the 737NG/CFM56–7B mirrors what was done on the 777 to satisfy Early-ETOPS approval.

• ''The additional 15,000 engine hour in-service evaluation plus the fact that three 180-minute single engine diversions were performed during Function and Reliability testing more than compensates for the omission of a 1000-cycle test,

• ''The satisfactory performance of the 737NG/CFM56–7B airframe/engine configuration during the certification testing, and

• ''The proven ability of Boeing to satisfactorily manage ETOPS airworthiness of the 777 fleet in the face of problems encountered in service. The 737NG proposal includes a problem tracking and resolution system that will remain in effect for a full 250,000 engine hours.''

The Model 737–700 was the first variant of the 737NG to enter service, in December 1997. Section 4.2 of the FAA-approved 120-minute ETOPS Airplane Assessment Report for the 737–700, Boeing Document Number D033A003, Revision B, states that the Model 737–700 was designed, manufactured, and tested for extended range operations at entry into service. The following additional supporting statements were also made.

a. ''The 737–700 airplanes have been designed and manufactured based on regimented application of lessons learned from other ETOPS program experience as well as the in-service experience of earlier 737 models.

b.''The 737–700 airplane was subjected to a rigorous test program as described in following paragraphs. Production equivalent equipment where appropriate, was used to support test objectives. Equipment was production equivalent as defined at the time of the test.''

No significant propulsion system design problems occurred during any of the testing described above. Two inflight shutdowns did occur during certification flight testing. One was caused by an indication fault within the electronic engine control that was corrected with a simple software change. The other was caused by an inappropriate flight test condition.

Boeing stated in the 737–700's 120-minute ETOPS Airplane Assessment Report that the fleet reached the 15,000-hour mark during the month of April 1998. At that time, there had been no inflight shutdowns in service. However, on May 9, 1998, before the FAA had completed its assessment of the airplane for ETOPS approval, the first inflight shutdown occurred. A second inflight shutdown occurred during the month of May, and the fleet exceeded the accepted 120-minute ETOPS standard of .05 inflight shutdowns per 1000 engine hours. Three inflight shutdowns occurred in June 1998, and one in July 1998. The peak inflight shutdown rate during this period was .085/1000 hours at the end of June 1998, which clearly did not meet the minimum standard for ETOPS type design approval.

The six engine inflight shutdowns were caused by three different failure root causes. Boeing and CFMI, the engine manufacturer, undertook aggressive actions to correct each of these design problems as they occurred. The high rate of fleet hourly accumulation during this period, however, resulted in new ETOPS reportable events occurring faster than the known problems could be corrected. This delayed FAA consideration of the 737–700 for ETOPS approval until the problems were brought under control. A consequence of the high rate of fleet hourly accumulation was that, with no additional inflight shutdowns, the inflight shutdown rate decreased rapidly and was within the ETOPS type design approval standard by the end of 1998. The FAA approved the 737–600/–700/–800 (737NG) for 120-minute ETOPS approximately one year after entry into service with over 300,000 engine-hours of service experience and an inflight shutdown rate of .020/1000 hours.

Conclusions From Comparison of 777 and 737NG

In comparing the 737NG experience with that of the 777, the FAA observes that there is a fleet hourly accumulation rate above which aggressive problem management to qualify for early ETOPS certification may become resource prohibitive. Therefore, when certifying an airplane/engine combination that will be entering service with a high production rate resulting in a rapid accumulation of engine hours, manufacturers may find it more cost-effective to use the service experience criteria of AC 120–42A than to follow the rigorous requirements of the early ETOPS process.

As stated earlier, the 777 ETOPS special conditions were designed to ''result in a level of airplane reliability that is equivalent to the level of reliability previously found to be acceptable based upon service experience.'' As previously noted, the current 777 ETOPS special conditions consist of five main elements needed to provide adequate compensation for the service experience normally required for 180-minute ETOPS eligibility described in AC 120–42A. No single element is considered sufficient by itself, but the FAA has found that the five elements combined provide an acceptable substitute for actual airline service experience. The five elements are:

1. Design for reliability.
2. Lessons learned.
3. Test requirements.
4. Demonstrated reliability.
5. Problem tracking system.

Even though the overall objective is a level of airplane and propulsion system reliability that is equivalent to that achieved through service experience, we considered the uncertainty of actually achieving that goal in the development of these special conditions. The first three elements focus on designing an airplane to eliminate sources of engine inflight shutdowns and diversions to the greatest practical extent. This is accomplished by an overall design philosophy to preclude sources of engine inflight shutdowns and diversions using the manufacturer's experience with earlier designs to identify successful and unsuccessful design features. The additional testing required by the special conditions focuses on exposing the design to conditions that in the past have contributed to engine failures, such as high engine vibration or repeated exposure to humid and inclement weather on the ground followed by long-range operation at the extreme cold temperatures at high altitude. These design and test elements do not assure a level of reliability that is equivalent to that based on service experience. Instead, they result in an acceptable level of inherent design reliability from which we can successfully manage ETOPS fleet safety once the airplane enters service.

The fourth element, ''demonstrated reliability,'' provides the FAA with a standard by which to judge a design against existing ETOPS-approved airplanes. This gives the FAA a standard from which to withhold ETOPS approval from airplanes that experience significant failures during certification testing, demonstrating that they are not suitable for ETOPS. However, it does not by itself guarantee that designs showing no significant failures during flight testing will have adequate reliability for ETOPS.

To manage fleet safety after ETOPS approval, we rely on the fifth element of the ETOPS special conditions. Paragraph (f) of the special conditions requires a problem tracking system for the prompt identification of those problems that could impact ETOPS safety. The FAA uses this enhanced problem reporting system to work with the airplane and engine manufacturers to aggressively manage and correct significant design problems identified after ETOPS approval. This requirement is the ''catch-all'' for those design flaws that are not caught by the other special conditions elements during airplane design and testing.

The first in-service inflight shutdown of the 737–700 variant of the 737NG did not occur until the fleet had accumulated approximately 30,000 engine-hours. The FAA could not have expected that a complete 1000-cycle airplane demonstration test would have had a better chance of discovering the types of problems that occurred in service on the 737NG than the nearly 30,000 hours accumulated on multiple airplanes and engines prior to the first inflight engine shutdown. While significant propulsion system failures occurring during type certification testing, including the additional testing required by the ETOPS special conditions, may indicate that a design is not yet ready to enter ETOPS service, the 737NG experience shows that the reverse cannot be stated with a significant degree of confidence. A lack of significant failures during certification testing does not in itself assure an ETOPS-suitable design at entry into service.

The 777 experience shows that a relatively small fleet can be managed successfully during the initial service period based on the data provided by the enhanced problem tracking system required by special conditions paragraph (f). The 737NG experience shows that a larger fleet may require a much more resource-intensive fleet management program. However, had the 737NG received its ETOPS approval as originally proposed prior to its first inflight shutdown in service, the problem reporting system that Boeing had in place gave the FAA timely identification of the problems causing inflight shutdowns so that we could have required appropriate corrective action through the airworthiness directive process to maintain ETOPS safety. Such airworthiness directives could have required the operators to incorporate design changes prior to

further ETOPS flight or withdrawn ETOPS approval.

Since we cannot be certain that an airplane approved for ETOPS under the special conditions will have the same maturity at original type certification as an airplane that we have approved based on service experience, our experience with the 777 and 737NG confirms that the five elements of the special conditions, in conjunction with the FAA's normal safety oversight processes, adequately compensate for that uncertainty.

The changes we propose for the engine demonstration test and the airplane demonstration test, including enhanced post-test inspection requirements, are intended to address our experience with the existing ETOPS special conditions, which identified several shortcomings in the original test requirements. We are proposing these changes to more clearly focus the testing on the objective of exposing the engines and airplane to those operating conditions that give us the best chance of identifying underlying major design flaws that could jeopardize ETOPS safety in service. These proposed changes would provide a better evaluation of the design than the existing requirements, including the 1000-cycle airplane flight test as previously conducted.

The FAA therefore proposes to change the purpose of the airplane demonstration test requirement of paragraph (e)(7) from being a demonstration of reliability to a demonstration of airplane capability under the types of ETOPS operational and diversion scenarios being proposed in this notice. The requirements of that airplane demonstration test have been changed accordingly.

Aged Engine Requirement

In response to Boeing's request, the FAA is proposing to delete paragraph (e)(7)(ii), which currently requires the installation of the engine and propulsion system from the 3000-cycle engine demonstration test required by paragraph (e)(6), or another suitable aged engine, on the 1000-cycle demonstration test airplane for a minimum of 500 cycles. Boeing provided the following information in support of its request for deleting the aged engine requirement:

Review of the aged engine data from the baseline 777 program showed that the nature of the findings, which occurred on the aged engines, was not related to the aging of the engines. The findings were related to the variation that occurs during manufacturing, assembly, etc. This lesson learned on the aged engines is consistent for each engine manufacturers' baseline 777 ETOPS test program.

The lack of findings related to the aging of an engine in the ETOPS flight test program has been demonstrated three times. Based on this consistent demonstration, there is no further need to maintain the requirement for an aged engine in the flight test program. Additionally, flying more airplane/engine combinations will provide increased opportunities for evaluating potential problem areas.

Boeing reported nine events (EE–1 Reports) which occurred during the ''aged'' engine portions of the 1000-cycle tests for the three baseline engine types, with an explanation of why the aged engine requirement was not necessary in order to identify each failure. Boeing stated that the lack of any EE–1 reports from the post-test inspections is an indication that there were no significant findings from the aged engine testing.

FAA Analysis of Boeing's Proposal: The original intent of the aged engine requirement was to expose the 3000-cycle test engine, or equivalent, to inflight conditions that cannot be simulated in a ground test environment. This would further validate the propulsion system design out to an age beyond 3000 cycles. Boeing data available at the time the ETOPS special conditions were developed indicated that 95% of all new significant failure modes occur on airplane propulsion systems with 3000 cycles or less. That concept is still valid. The lack of specific findings on the aged engine during the 1000-cycle airplane validation test only confirms the validity of the Reliability Assessment Board's conclusion that those baseline 777 engine installations were suitable for 180-minute ETOPS. A number of significant events during the 1000-cycle test program would have jeopardized that conclusion.

The question that the FAA considers to be more relevant is whether or not a greater benefit would come from a more thorough teardown inspection and analysis of the 3000-cycle test engine and propulsion system hardware than from this additional level of validation. In this regard, the FAA agrees with Boeing that other test articles may provide sufficient experience to uncover the majority of age-related problems independent of the additional exposure provided by the 1000-cycle test inflight exposure.

In consideration of the need to perform a detailed analysis of the 3000-cycle test engine and the extra expense of using a parallel 3000-cycle test engine as ''another suitable aged engine,'' the FAA agrees that the requirement for installation of an aged engine on the ETOPS test airplane can be eliminated provided significantly improved processes are used to analyze the condition of the 3000-cycle test and airplane demonstration test engines at the conclusion of these tests, as being proposed for paragraph (e)(6).

Miscellaneous Amendments

We are also proposing the following revisions.

Re-identification of paragraph (e)(7)(iii) as (e)(7)(iv) and revision of the requirement that the 1000-cycle test airplane be operated and maintained using the recommended operations and maintenance procedures to recognize that more than one test airplane may be used.

Replacement of the reference to the ''1000-cycle ETOPS test'' with ''Airplane Demonstration Test'' in paragraph (g)(2) in order to be consistent with the changes being proposed for paragraph (e)(7).

Replacement of the reference to the ''1000-flight-cycle ETOPS test'' with ''Airplane Demonstration Test'' in paragraph (h)(1) in order to be consistent with the changes being proposed for paragraph (e)(7).

Applicability

As discussed above, these special conditions are applicable to Boeing Model 777 series airplanes. Should The Boeing Company apply at a later date for a change to the type certificate to modify any model included on Type Certificate No. T00001SE to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1), Amendment 21–69, effective September 16, 1991.

Conclusion

This action affects only certain novel or unusual design features on Boeing Model 777 series airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following revisions to Special Conditions 25–ANM–84 as part of the type certification basis for Boeing Model 777 series airplanes. The existing special conditions are printed in their entirety for clarity. Your comments are invited on the proposed revisions: Sections (e)(6), (e)(7), and the word substitutions in sections (g)(2) and (h)(1).

In addition to the airworthiness requirements of 14 CFR part 25, the Model 777 airplane must comply with the following requirements in order to be eligible for Extended Range Operation with Two-Engine Airplanes (ETOPS) without the requisite operating experience specified in Advisory Circular (AC) 120–42A:

(a) *Introduction.* An approved ETOPS Type Design Assessment Plan covering the engine and each applicable airplane system must be established. The specific methods that will be used to substantiate compliance with the requirements of these special conditions must be defined in the plan. Specific systems that will undergo the complete analysis, testing, and development program tracking defined in paragraph (c) of these special conditions must be identified. Other airplane systems that may contribute to the overall safety of an ETOPS operation, but that do not warrant the rigorous type design requirements and relevant experience assessments defined in paragraph (c) of these special conditions, must be identified and agreed to by the FAA. Compliance must be shown for these other systems with all provisions of these special conditions, except paragraph (c). In showing compliance with these special conditions, tests and analyses conducted to substantiate compliance with the basic airworthiness standards of part 25 may be referenced, if applicable.

(b) *Engine Assessment.*

(1) The ETOPS eligibility of the engine must be determined specifically for the airplane installation for which early ETOPS type design approval is requested.

(2) Procedures for an engine condition monitoring program must be defined and validated at the time of ETOPS type design approval. The engine condition monitoring program must be able to predict when an engine is no longer capable of providing, within certified engine operating limits, the maximum thrust required for a single engine diversion.

(c) *ETOPS Type Design Assessment.*

(1) *Design Requirements Assessment.* 14 CFR part 25, including applicable amendments, defines most of the requirements necessary to design an airplane that is suitable for ETOPS operation, as long as the ETOPS mission is considered in applying these requirements for all anticipated dispatch configurations. In addition to these requirements, the propulsion system must be designed to preclude failures or malfunctions that could result in an engine inflight shutdown. The applicant must identify and list methods of compliance for each of the applicable ETOPS requirements, including those specific part 25 requirements for which methods of compliance relative to the ETOPS mission are different from those traditionally used for two-engine airplanes. Paragraph (c)(3) of these special conditions lists certain design feature categories that may be affected by a consideration of the ETOPS mission in the design of these systems. The effects of the applicable ETOPS requirements on the design of any of those design feature categories listed in paragraph (c)(3) must be specifically addressed by this assessment.

(2) *Relevant Experience Assessment.* For each system covered by the ETOPS Type Design Assessment, there must be an assessment of the relevant design, manufacturing, and operational problems experienced on previous airplanes built by the applicant. The assessment must include the applicable relevant service experience of vendor supplied systems or, to the extent possible, the service experience of components on aircraft built by other manufacturers. Specific corrective actions taken to preclude similar problems from occurring on the new airplane must be identified.

(3) *Design Features.*

(i) The applicant must define any design features implemented to comply with the design requirements listed in paragraph (c)(1). Consideration of the following design feature categories must be specifically addressed:

(A) Airplane capabilities and capacities of the ETOPS mission;

(B) Fuel system integrity, including consideration of uncontained main engine rotor burst and fuel availability as affected by cross-feed capability and electrical power to pumps and other components;

(C) Fuel quantity indication to the flightcrew, including alerts that consider the fuel required to complete the mission, abnormal fuel management or transfer between tanks, and possible fuel leaks between the tanks and the main engines;

(D) Communication systems for the ETOPS environment;

(E) Navigation systems for the ETOPS environment;

(F) Minimum single engine cruise altitude capability; and

(G) Failure tolerant designs of cockpit indicating systems or avionics systems to prevent unnecessary airplane diversions.

(ii) The applicant must define the specific design features used to address problems identified in the relevant service experience assessment of paragraph (c)(2).

(4) *Test Features.* The applicant must define specific new tests, or enhanced tests, that will be used to assure engine and airplane system design integrity. These test features may be derived from the requirements assessment of paragraph (c)(1) and the relevant service experience assessment of paragraph (c)(2).

(5) *Analysis Features.* The applicant must define specific new analyses, or enhanced analyses, that will be used to assure engine and airplane system design integrity. These analysis features may be derived from the requirements assessment of paragraph (c)(1) and the relevant service experience assessment of paragraph (c)(2).

(6) *Manufacturing, Maintenance, or Operational (Other) Features.* The applicant must define specific new, or enhanced, manufacturing processes or procedures, and maintenance or operational procedures that are being implemented to assure engine and airplane system integrity. These ''other'' features may be derived from the requirements assessment of paragraph (c)(1) of this section and the relevant service experience assessment of paragraph (c)(2).

(d) *Additional ETOPS Analysis Requirements.*

(1) *Performance and Failure Analyses.* Engine and airplane performance and failure analyses required for certification must be expanded to consider ETOPS mission requirements, including exposure times associated with a 180-minute single-engine diversion and a subsequent 15-minute hold in the terminal airspace at the diversion airport. Consideration must be given to crew workload and operational implications of continued operation with failure effects for an extended period of time. The rationale and all assumptions used in the analyses must be documented, justified, and validated, including maintenance interval and maintainability assumptions.

(2) *Maintenance and Flight Operations Evaluation.* The Type Design Assessment Plan must contain a program to systematically detect and correct problems occurring as a result of improper execution of maintenance or flight operations. Corrective actions for any problems found must be identified and implemented through the Problem Tracking and Resolution System required by paragraph (f).

(3) *Manufacturing Variability.* The Type Design Assessment Plan must contain a program to minimize potential manufacturing problems. The plan should address early validation of tooling and procedures, as well as any related problems, as identified in paragraph (c)(2). Corrective actions for problems that impact the safe operation of the airplane must be identified and implemented through the problem tracking and resolution system required by paragraph (f).

(e) *Additional ETOPS Test Requirements.* As part of, or in addition to, the testing identified in paragraph (c)(4), the following specific test requirements apply:

(1) *Configuration Requirements.* All testing defined in paragraph (e) must be conducted with the configuration proposed for certification, and must include sufficient interfacing system hardware and software to simulate the actual airplane installation.

(2) *Completion of Applicable Failure Analyses.* Failure analyses required for ETOPS type design approval must be submitted to the FAA prior to the start of the testing defined in paragraph (e).

(3) *Vibration Testing.* Vibration testing must be conducted on the complete installed engine configuration to demonstrate that no damaging resonances exist within the operating envelope of the engine that could lead to component, part, or fluid line failures. The complete installed engine configuration includes the engine, nacelle, engine mounted components, and engine mounting structure up the strut to wing interface.

(4) *New Technology Demonstration Testing.* Testing must be conducted to substantiate the suitability of any technology new to the applicant, including substantially new manufacturing techniques.

(5) *Auxiliary Power Unit Demonstration Test.* If requesting credit for APU backup electrical power generation, one auxiliary power unit (APU), of the type to be certificated with the airplane, must complete 3000 equivalent airplane operational cycles.

(6) *Engine Demonstration Test.* One engine of each type to be certificated with the airplane must complete 3000 equivalent airplane operational cycles. The engine must be configured with a complete airplane nacelle package for this demonstration, including engine-mounted equipment except for any configuration differences necessary to accommodate test instrumentation and test stand interfaces with the engine nacelle package. At completion of the engine demonstration test, the engine and airplane nacelle test hardware must undergo a complete teardown inspection. This inspection must be conducted in a manner to identify abnormal conditions that could become potential sources of engine inflight shutdown. An analysis of any abnormal conditions found must consider the possible consequences of similar occurrences in service to determine if they may become sources of engine inflight shutdowns, power loss, or inability to control engine thrust. Any potential sources of engine inflight shutdown identified must be corrected in accordance with paragraph (g)(2).

(7) *Airplane Demonstration Test.* In addition to the function and reliability testing required by 14 CFR 21.35(b)(2), for each engine type to be certificated with the airplane, one or more airplanes must complete flight testing which demonstrates that the aircraft, its components, and equipment, are capable of and function properly during long range operations and airplane diversions, including engine-inoperative diversions.

(i) The flight conditions must expose the airplane to representative operational variations based on the airplane's system and equipment design and the intended use of the airplane including:

(A) Engine inoperative maximum length diversions to demonstrate the airplane and propulsion system's capability to safely conduct a diversion.

(B) Non-normal conditions to demonstrate the airplane's capability to safely divert under worst case probable system failure conditions.

(C) Simulated airline operations including normal cruise altitudes, step climbs, and maximum expected flight durations out of and into a variety of departure and arrival airports.

(D) Diversions to worldwide airports representative of those intended as operational alternates.

(E) Repeated exposure to humid and inclement weather on the ground followed by long-range operation at normal cruise altitude.

(ii) The flight testing must validate expected airplane flying qualities and performance considering engine failure, electrical power losses, etc. The testing must demonstrate the adequacy of remaining airplane systems and performance and flightcrew ability to deal with an emergency considering remaining flight deck information following expected failure conditions.

(iii) The engine-inoperative diversions must be evenly distributed among the number of engines in the applicant's flight test program.

(iv) The test airplane(s) must be operated and maintained using the recommended operations and maintenance manual procedures during the airplane demonstration test.

(v) At completion of the airplane demonstration test, the test engines and engine-mounted equipment must undergo a complete external on-wing visual inspection. The engines must also undergo a complete internal visual inspection. These inspections must be conducted in a manner to identify abnormal conditions that could become potential sources of engine inflight shutdowns. An analysis of any abnormal conditions found must consider the possible consequences of similar occurrences in service to determine if they may become sources of engine inflight shutdowns. Any potential sources of engine inflight shutdown that are identified must be corrected in accordance with paragraph (g)(2).

(f) *Problem Tracking System.* An FAA-approved problem tracking system must be established to address problems encountered on the engine and airplane systems that could affect the safety of ETOPS operations.

(1) The system must contain a means for the prompt identification of those problems that could impact the safety of ETOPS operations in order that they may be resolved in a timely manner.

(2) The system must contain the process for the timely notification to the responsible FAA office of all relevant problems encountered, and corrective actions deemed necessary, in a manner that allows for appropriate FAA review of all planned corrective actions.

(3) The system must be in effect during the phases of airplane development that will be used to assess early ETOPS eligibility, and for at least the first 250,000 engine-hours of fleet operating experience after the airplane enters revenue service. For the revenue service period, this system must define the sources and content of in-service data that will be made available to the manufacturers in support of the problem tracking system. The content of the data provided must include, as a minimum, the data necessary to evaluate the specific cause of all service incidents reportable under § 21.3(c) of part 21, in addition to any other failure or

malfunction that could prevent safe flight and landing of the airplane, or affect the ability of the crew to cope with adverse operating conditions.

(4) Corrective actions for all problems discovered during the development and certification test program that could affect the safety of ETOPS operations, or the intended function of systems whose use is relied upon to accomplish the ETOPS mission, must be identified and implemented in accordance with paragraph (g)(2). If, during the certification program, it is discovered that a fault has developed that requires significant rework of manufacturing, maintenance, and/or operational procedures, the FAA will review the ETOPS suitability of the affected system and interfacing hardware and identify any additional actions to be accomplished to substantiate the corrective actions.

(5) For each engine type to be certificated with the airplane, the system must include provisions for an accelerated engine cyclic endurance test program that will accumulate cycles on one representative production-equivalent propulsion system in advance of the high-cycle revenue fleet engine. This test program will assist the applicant and the FAA in identifying and correcting problems before they occur in revenue service. This program must be in place for, at a minimum, the first 250,000 engine-hours of fleet operating experience after the airplane enters revenue service. The representative production-equivalent propulsion system may, at the manufacturer's discretion, be used for other fleet support activities.

(g) *Reliability Assessment Board.*

(1) An FAA Reliability Assessment Board will be formed to evaluate the suitability of the airplane for ETOPS approval and make a recommendation to the Manager, Transport Airplane Directorate, regarding the adequacy of the type design for 180-minute ETOPS operation. The purpose of this board will be:

(i) To periodically review the development and certification flight test program accomplishments from both type design and operational perspectives;

(ii) To ensure that all specific problems, as well as their implications on the effectiveness of the Early ETOPS process, are resolved; and

(iii) To assess the design suitability for ETOPS. The board will consider design, maintenance, manufacturing, and operational aspects of the type design when finding suitability for ETOPS approval.

(2) The FAA Reliability Assessment Board will review and evaluate the data from the problem tracking and resolution system to establish compliance with the requirements of paragraph (h). The board will evaluate the overall type design for ETOPS suitability as demonstrated in flight test, and the *Airplane Demonstration Test*, considering all resolutions of problems. The following suitability criteria will be applied:

(i) Sources of engine shutdown/thrust loss, engine anomalies, or airplane system problems that have a potential significant adverse effect on in-service safety will be resolved.

(ii) Resolutions are identified for all items in paragraph (i) with analysis and/or testing to show all resolutions are effective. These resolutions may be accomplished through one or more of the following categories: Design change, Operating procedure revision, Maintenance procedure revision, Manufacturing change.

(iii) The resolutions of paragraphs (i) and (ii) will be incorporated prior to entry into service.

(iv) The engine shutdown history of the test program indicates that the engine reliability of the configuration is suitable for the ETOPS approval being considered.

(v) Where interim resolutions having operational impact are defined, the cumulative effect must be determined to be acceptable.

(vi) System or component failures experienced during the program are consistent with the assumptions made in the failure analyses.

(h) *Reliability Demonstration Acceptance Criteria.*

(1) For the engine and airplane systems, the type and frequency of failures that occur during the airplane flight test program and the *Airplane Demonstration Test* must be consistent with the type and frequency of failures or malfunctions that would be expected to occur on presently certified 180-minute ETOPS airplanes. The failures to be considered are those associated with system components that conform to the type design requested for certification. The Reliability Assessment Board will determine compliance with this requirement based on an evaluation of the problem reporting system data, considering system redundancies, failure significance, problem resolution, and engineering judgment.

(2) Corrective action for any of the following classes of problems occurring during the testing identified in paragraph (h)(1) that requires a major system redesign would delay ETOPS type design approval, or result in approval of a reduced single-engine diversion time, unless corrective action has been substantiated to, and accepted by, the FAA Reliability Assessment Board:

(i) Any source of unplanned inflight shutdown or loss of thrust.

(ii) Any problem that jeopardizes the safety of an airplane diversion.

(3) The FAA Reliability Assessment Board must determine that the suitability criteria of paragraph (g)(2) have been met.

(i) *Demonstration of Compliance.* In order to be eligible for 180-minute ETOPS type design approval, the following conditions apply:

(1) The engine assessment has been completed and eligibility for ETOPS operation has been approved by the FAA Engine Certification Office.

(2) All design, manufacturing, maintenance, operational, and other features necessary to meet the ETOPS requirements of paragraph (c)(1), and to resolve the problems identified in paragraph (c)(2), have been successfully implemented.

(3) The identified test and analysis features in paragraph (c)(4) and (c)(5) have been shown to be effective in validating the successful implementation of the features in paragraph (i)(2).

(4) The additional analysis requirements of paragraph (d) have been completed and the results have been approved.

(5) The additional test requirements of paragraph (e) have been successfully completed.

(6) All significant problems identified in accordance with paragraph (f) have been resolved, and fixes substantiated to be effective have been implemented.

(7) The accelerated engine cyclic endurance test program of paragraph (f)(5) must be in place.

(8) Compliance with the reliability demonstration acceptance criteria of paragraph (h) has been found by the Reliability Assessment Board.

Issued in Renton, Washington on June 4, 2003.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 347

[Docket No. 78N–021A]

RIN 0910–AA01

Skin Protectant Drug Products for Over-the-Counter Human Use; Astringent Drug Products; Final Monograph; Proposed Rule

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the regulation that established conditions under which over-the-counter (OTC) skin protectant astringent drug products are generally recognized as safe and effective and not misbranded. This action would revise some labeling for astringent drug products to be consistent with the final rule for OTC skin protectant drug products (68 FR 33362, June 4, 2003) and would add labeling for certain small packages (styptic pencils). This action is part of FDA's ongoing review of OTC drug products. This proposed rule is a companion document to the direct final rule published elsewhere in this issue of the **Federal Register**.

DATES: Submit written comments on the proposed rule by August 27, 2003.

ADDRESSES: Submit written comments on the proposed rule to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Gerald M. Rachanow, Center for Drug Evaluation and Research (HFD–560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2307.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of October 21, 1993 (58 FR 54458), FDA published a final monograph for OTC skin protectant astringent drug products in part 347 (21 CFR part 347), subpart A. In the **Federal Register** of June 4, 2003 (68 FR 33362), FDA published a final rule for OTC skin protectant drug products and revised the format of part 347. Subpart A was redesignated as ''General Provisions,'' and the astringent active ingredients (§ 347.10) and labeling (§ 347.50) were redesignated as §§ 347.12 and 347.52, respectively.

Two ingredients (colloidal oatmeal and sodium bicarbonate) added to the skin protectant monograph are used as a soak, compress, or wet dressing similar to the astringent active ingredient aluminum acetate. In the skin protectant final monograph, the agency included a warning about soaking too long (§ 347.50(c)(7)) and included directions for colloidal oatmeal (§ 347.50(d)(2)) and sodium bicarbonate (§ 347.50(d)(3)) that are shorter than the directions for aluminum acetate (§ 347.52(d)(1)) and that are in the new OTC drug labeling format. In this proposed rule, the agency is adding this warning, shortening the directions for aluminum acetate drug products, and stating these directions in the new OTC drug labeling format.

Section 201.66(d)(10) (21 CFR 201.66(d)(10)) of the OTC drug labeling rule (64 FR 13254 at 13286, March 17, 1999) establishes a modified labeling format for small packages that need more than 60 percent of their total surface area available to bear labeling to meet the requirements of § 201.66(c)(1) through (c)(9) and (d)(1) through (d)(9). The agency stated in that rule that it would consider additional approaches for accommodating certain products in their respective monographs, taking into consideration the risks and benefits of the drug, the intended use, and the need to communicate limitations or restrictions about the use of the product to the target population (64 FR 13254 at 13270, March 17, 1999). The 2003 skin protectant final monograph included additional labeling exemptions for certain small packages (lip protectant products) that meet the size criteria established in § 201.66(d)(10). The agency determined that lip protectant/lip balm products are typically packaged in small amounts, applied to limited areas of the body, have a high therapeutic index, carry extremely low risk in actual consumer use situations, provide a favorable public health benefit, require no specified dosage limitation, and require few specific warnings and no general warnings (e.g., pregnancy or overdose warnings).

Consequently, the agency is now proposing to include additional labeling exemptions for certain small packages of skin protectant astringent drug products (styptic pencils) that meet the criteria established in § 201.66(d)(10), taking into consideration the risks and benefits of the drug, the intended use, and the need to communicate limitations or restrictions about the use of the product to the target population. For the safety profile of styptic pencils, the agency considered the recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products (the Panel). The Panel noted that ''In 75 years of marketing styptic pencils there have been [no] reported instances of human toxicity'' (47 FR 39412 at 39429, September 7, 1982). (The word ''no'' was inadvertently left out of the September 7, 1982, publication, and the agency corrected this error in its notice of proposed rulemaking for OTC skin protectant astringent drug products (54 FR 13490 at 13493, April 3, 1989).) The Panel also stated that aluminum sulfate (the active ingredient in styptic pencils) ''has little, if any, cell permeability and exerts its effect on the cell surface.'' The only side effect the Panel noted was that application of the styptic pencil on a cut may result in some stinging. Thus, these products have an extremely low risk in actual consumer use situations, and the monograph only requires two general warnings (§ 347.50(c)(1)) and no ingredient specific warnings.

The agency also considered the factors listed above that were the basis for labeling modifications for OTC lip protectant/lip balm drug products. Like those products, styptic pencils are packaged in small amounts, have a high therapeutic index and a favorable public health benefit (stop bleeding), would be used infrequently and on very limited areas of the body to stop bleeding of minor cuts from shaving, require minimal warnings (there is no pregnancy warning because this is a topical product), and have no specified dosage limitation (the directions for use are to apply to the affected area). For these reasons, the agency is including specific labeling provisions for certain small packages of skin protectant astringent drug products (styptic pencils) in this proposed rule.

II. Description of the Labeling Revisions

The warning in § 347.50(c)(7), when the colloidal oatmeal or sodium bicarbonate product is labeled for use as a soak, compress, or wet dressing, states: ''When using this product [bullet] in some skin conditions, soaking too long may overdry.'' The agency is proposing to add this warning in new § 347.52(c)(4) for products containing aluminum acetate when labeled for use as a soak, compress, or wet dressing. Our decision to revise the warning set forth in this direct final rule is based upon a finding that bathing can dry the skin out and exacerbate some conditions (as discussed in the 2003 skin protectant final monograph (68 FR 33362 at 33367). Mandating a warning does not require a finding that any or all of the astringent drug products actually caused

an adverse event, and FDA does not so find. Nor does FDA's mandate of a warning repudiate the OTC drug monograph under which the affected drug products have been lawfully marketed. Rather, as a consumer protection agency, FDA has determined that this revised warning is necessary to ensure that these OTC drug products continue to be safe and effective for their labeled indications under ordinary conditions of use as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

FDA's decision to act in an instance such as this one need not meet the standard of proof required to prevail in a private tort action (*Glastetter* v. *Novartis Pharmaceuticals, Corp.*, 252 F.3d 986, 991 (8th Cir. 2001)). To mandate a warning, or take similar regulatory action, FDA need not show, nor do we allege, actual causation.

The agency is proposing to revise the directions in § 347.52(d)(1)(i) for aluminum acetate used as a soak to read: ''For use as a soak: [bullet] soak affected area for 15 to 30 minutes as needed, or as directed by a doctor [bullet] repeat 3 times a day or as directed by a doctor [bullet] discard solution after each use''. The agency is proposing to revise the directions in § 347.52(d)(1)(ii) for aluminum acetate used as a compress or wet dressing to read: ''For use as a compress or wet dressing: [bullet] soak a clean, soft cloth in the solution [bullet] apply cloth loosely to affected area for 15 to 30 minutes [bullet] repeat as needed or as directed by a doctor [bullet] discard solution after each use''. The agency is also proposing to shorten the directions in § 347.52(d)(3) for products containing witch hazel to read: ''apply as often as needed''.

The agency is proposing to add new § 347.52(e) for products containing aluminum sulfate formulated as a styptic pencil. This section allows products that meet the criteria established in § 201.66(d)(10) to be marketed with reduced labeling.

III. Additional Information

This proposed rule is a companion to the direct final rule published in the final rules section of this issue of the **Federal Register**. This companion proposed rule and the direct final rule are identical. This companion proposed rule will provide the procedural framework to finalize the rule in the event the direct final rule receives significant adverse comments and is withdrawn. The comment period for this companion proposed rule runs concurrently with the comment period of the direct final rule. Any comments received under the companion proposed rule will be treated as comments regarding the direct final rule.

If no significant adverse comment is received in response to the direct final rule, no further action will be taken related to this proposed rule. Instead, FDA will publish a confirmation document stating that the direct final is effective as of 135 days after the date of publication in the **Federal Register**. If FDA receives significant adverse comments, the agency will withdraw the direct final rule. FDA will proceed to respond to all of the comments received regarding the rule and, if appropriate, the rule will be finalized under this companion rule using usual notice-and-comment procedures.

For additional information, see the corresponding direct final rule published in the final rules section of this issue of the **Federal Register**. FDA will not provide additional opportunity for comment. A significant adverse comment is one that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment recommending a rule change in addition to this rule will not be considered a significant adverse comment, unless the comment states why this rule would be ineffective without the additional change.

IV. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*). 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). Under the Regulatory Flexibility Act, if a rule has a significant economic impact on a substantial number of small entities, an agency must analyze regulatory options that would minimize any significant impact of the rule on small entities. Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement and economic analysis before proposing any rule that may result in an expenditure in any one year by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation).

The agency concludes that this proposed rule is consistent with the principles set out in the Executive order and in these two statutes. The proposed rule is not a significant regulatory action as defined by the Executive order and so is not subject to review under the Executive order. FDA has determined that the proposed rule does not have a significant economic impact on a substantial number of small entities. The Unfunded Mandates Reform Act does not require FDA to prepare a statement of costs and benefits for this proposed rule, because the proposed rule is not expected to result in any 1–year expenditure that would exceed $100 million adjusted for inflation. The current inflation adjusted statutory threshold is about $110 million.

The purpose of this proposed rule is to make some minor labeling revisions in the previously issued astringents portion of the skin protectant drug products monograph to make the labeling consistent with the rest of the monograph and to add small package labeling provisions for aluminum sulfate marketed as a styptic pencil.

Current manufacturers of these products should incur only minor costs to relabel their products to meet the monograph. Some manufacturers will have to add a warning and revise the directions in their labeling. The agency will provide either 24 months from the date of publication of a final rule or the date of the first major labeling revision after the effective date of the final rule, whichever occurs first, for the manufacturers to use up existing labeling and to print new labeling that incorporates the labeling included in any final rule that may publish based on this proposal. Further, the labeling in the proposed rule is in the new OTC drug labeling format. Therefore, no additional professional skills are needed and manufacturers will not incur expenses determining how to state the product's labeling.

The agency believes that relabeling costs of the type required by this proposed rule generally average about $2,000 to $3,000 per stock keeping unit (SKU) (individual products, packages, and sizes). Assuming that there are about 25 affected OTC SKU's in the marketplace, total one-time costs of relabeling would be $50,000 to $75,000. The agency believes that the actual cost could be lower for the reasons stated in the previous paragraph.

For the reasons stated above and under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commissioner certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

V. Paperwork Reduction Act of 1995

FDA concludes that the labeling requirements in this document are not subject to review by the Office of Management and Budget because they do not constitute a ''collection of information'' under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Rather, the labeling statements are a ''public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public'' (5 CFR 1320.3(c)(2)).

VI. Environmental Impact

The agency has determined under 21 CFR 25.31(a) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VII. Request for Comments

This comment period runs concurrently with the comment period for the direct final rule; any comments received will be considered as comments regarding the direct final rule. Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments to *http://www.fda.gov/dockets/ecomments* or three hard copies of any written comments, except that individuals may submit one hard copy. Comments are to be identified with the docket number forund in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. In the event the direct final rule is withdrawn, all comments received will be considered comments on this proposed rule.

List of Subjects in 21 CFR Part 347

Labeling, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 347 be amended to read as follows:

PART 347—SKIN PROTECTANT DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. The authority citation for 21 CFR part 347 continues to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

2. Section 347.52 is amended by adding paragraphs (c)(4) and (e) and by revising paragraphs (d)(1)(i), (d)(1)(ii), and (d)(3) to read as follows:

§ 347.52 Labeling of astringent drug products.

* * * * *

(c) * * *

(4) *For products containing aluminum acetate identified in § 347.12(a) when labeled for use as a soak, compress, or wet dressing.* ''When using this product [bullet] in some skin conditions, soaking too long may overdry''.

(d) * * *

(1) * * *—(i) *For products used as a soak.* ''For use as a soak: [bullet] soak affected area for 15 to 30 minutes as needed, or as directed by a doctor [bullet] repeat 3 times a day or as directed by a doctor [bullet] discard solution after each use''.

(ii) *For products used as a compress or wet dressing.* ''For use as a compress or wet dressing: [bullet] soak a clean, soft cloth in the solution [bullet] apply cloth loosely to affected area for 15 to 30 minutes [bullet] repeat as needed or as directed by a doctor [bullet] discard solution after each use''.

* * * * *

(3) *For products containing witch hazel identified in § 347.12(c).* ''Apply as often as needed''.

(e) *Products formulated and labeled as a styptic pencil and that meet the criteria established in § 201.66(d)(10) of this chapter.* The title, headings, subheadings, and information described in § 201.66(c) of this chapter shall be printed in accordance with the following specifications:

(1) The labeling shall meet the requirements of § 201.66(c) of this chapter except that the headings and information described in § 201.66(c)(3) and (c)(7) may be omitted, and the headings, subheadings, and information described in § 201.66(c)(4) and (c)(5) may be presented as follows:

(i) The heading and indication required by § 201.66(c)(4) of this chapter may be limited to: ''Use [in bold type] stops bleeding of minor cuts from shaving''.

(ii) The ''external use only'' warning in § 347.52(c)(1) and in § 201.66(c)(5)(i) of this chapter may be omitted. The second warning in § 347.52(c)(1) may state: ''Avoid contact with eyes''. The warning in § 201.66(c)(5)(x) may be limited to the following: ''Keep out of reach of children.'' The subheadings in § 201.66(c)(5)(iii) through (c)(5)(vii) may be omitted, provided the information after the heading ''Warning'' contains the warnings in this paragraph.

(2) The labeling shall be printed in accordance with the requirements of § 201.66(d) of this chapter, except that any requirements related to § 201.66(c)(3) and (c)(7) and the horizontal barlines and hairlines described in § 201.66(d)(8), may be omitted.

Dated: May 27, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–14819 Filed 6–12–03; 8:45 am]

BILLING CODE 4160–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[FRL–7511–5]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Louisiana, New Mexico, Oklahoma and Bernalillo County, NM; Negative Declarations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve negative declarations submitted by the States of Louisiana, New Mexico, Oklahoma, and the City of Albuquerque (Bernalillo County), New Mexico, which certify that there are no existing small municipal waste combustion units in Louisiana, New Mexico, and Oklahoma subject to the requirements of sections 111(d) and 129 of the Clean Air Act (CAA). EPA is also proposing to approve negative declarations submitted by the State of New Mexico and the City of Albuquerque (Bernalillo County) which certify that there are no existing hospital/medical/infectious waste incinerators subject to the requirements of sections 111(d) and 129 of the CAA. In addition, EPA is proposing to approve a negative declaration submitted by the City of Albuquerque (Bernalillo County) which certifies that there are no existing large municipal waste combustion units subject to the requirements of sections 111(d) and 129 of the CAA. Finally, EPA is proposing to approve a negative declaration submitted by the State of New Mexico which certifies that there are no existing commercial and industrial solid waste incineration units subject to the requirements of sections 111(d) and 129 of the CAA.

DATES: Written comments must be received by July 14, 2003.

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following location. Anyone wanting to examine these documents should make an appointment with the EPA Region 6 Office.

Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth W. Boyce, Air Planning Section (6PD–L), Multimedia Planning and Permitting Division, U.S. EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, (214) 665–7259.

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the submittals as a direct final rule without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comment. The EPA has explained its reasons for this approval in the preamble to the direct final rule. If EPA receives no relevant adverse comment, EPA will not take further action on this proposed rule. If EPA receives relevant adverse comment, EPA will withdraw the direct final rule and it will not take effect. The EPA will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule located in the ''Rules and Regulations'' section of this **Federal Register**.

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

Dated: May 16, 2003.

Lawrence E. Starfield,

Deputy Regional Administrator, Region 6.

[FR Doc. 03–15008 Filed 6–12–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2003–0182; FRL–7309–7]

Humates; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Agency is proposing, on its on initiative, to amend the existing tolerance exemption for humic acid, sodium salt to include humic acid, potassium salt and humic acid. Such humate materials would be used as inert ingredients in pesticide formulations applied to growing crops under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

DATES: Comments, identified by docket ID number OPP–2003–0182, must be received on or before July 14, 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: Kerry Leifer, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8811; fax number: (703) 305–0599; e-mail address: leifer.kerry@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 producttion (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–2003–0182. 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. 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–2003–0182. 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–2003–0182. 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–2003–0182.

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–2003–0182. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.A.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 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 your estimate.

5. Provide specific examples to illustrate your concerns.

6. Offer alternatives.

7. Make sure to submit your comments by the comment period deadline identified.

8. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. Background

In the **Federal Register** of April 12, 2000 (65 FR 19759) (FRL–6498–8), EPA issued a notice pursuant to section 408 for the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP 6E4705) by LignoTech USA, Inc., 100 Highway 51 South, Rothschild, WI 54474–1198. This notice included a summary of the petition prepared by the petitioner LignoTech USA, Inc. This petition requested that 40 CFR 180.1001(c) and (e) be amended by establishing an exemption from the requirement of a tolerance for residues of humic acid, sodium salt. Subsequently, the petitioner revised the petition to request the establishment of an exemption from the requirement of a tolerance for residues of humic acid, sodium salt under 40 CFR 180.1001(c) only. There were no comments received in response to the Notice of Filing. In the **Federal Register** of July 18, 2000 (65 FR 44469) (FRL–6595–9), the Agency established an exemption from the requirement of a tolerance for residues of humic acid, sodium salt when used as an inert ingredient (adjuvant, UV protectant) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest.

In the **Federal Register** of March 6, 2002 (67 FR 10203) (FRL–6825–9), the Agency published a Notice of Filing to amend the above pesticide petition 6E4705 from Arctech, Inc. located at 14100 Park Meadow Drive, Chantilly, VA 20151, to amend the existing exemption from the requirement of a tolerance to include residues of humic acid, potassium salt when used as an inert ingredient in pesticide formulations applied to growing crops, raw agricultural commodities (RAC) after harvest, or to animals. The notice included a summary of the petition prepared by the petitioner, Arctech, Inc. There were no comments received in response to this Notice of Filing.

III. What Action is the Agency Taking?

EPA on its own initiative, under section 408(e) of the FFDCA, 21 U.S.C. 346a, is proposing to establish an unlimited exemption from the requirement of a tolerance for residues of humic acid, sodium salt (CAS Reg. No. 68131–04–04); humic acid, potassium salt (CAS Reg. No. 68514–28–3); and humic acid (CAS Reg. No. 1415–93–6) when used as an inert ingredient in pesticide formulations that are applied to growing crops under 40 CFR 180.1001(d).

The Agency has not issued a final rule on the petition seeking the establishment of a tolerance exemption for humic acid, potassium salt, but rather is issuing this proposed rule to amend the existing tolerance exemption for humic acid, sodium salt to also include humic acid, potassium salt; and humic acid. Based on a review and evaluation of the available data, which includes a 90–day toxicity study using humic acid, the Agency believes that the tolerance exemption should also include humic acid, not just the two salts, as requested by the petitioners. The existing tolerance exemption for humic acid, sodium salt will also be shifted from 40 CFR 180.1001(c) to 40 CFR 180.1001(d). Given that the nature of the substances considered are naturally occurring materials, and ubiquitous in the environment, but essentially, a component of soil, the Agency believes that 40 CFR 180.1001(d), i.e., application to growing crops to be more appropriate. The Agency has determined that there are no existing products containing humic acid, sodium salt having post-harvest uses. Therefore, this action will not have an effect on any currently registered pesticide product.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement of 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 an exemption from the requirement of 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. . . .''

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 the establishment of an exemption from the requirement of a tolerance for humate materials. EPA's assessment of exposures and risks associated with establishing the exemption from the requirement of a tolerance follows.

IV. 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 humate materials are discussed in this unit.

Humate materials or humic substances occur naturally in the environment. They are part of the environment in which we grow our food. The use of the term humus is said to have occurred when Rome was an empire. The term has also been found in 18th century writings. Humic substances are used as soil conditioners to increase the amount of organic matter in the soil; thus, increasing the workability of the soil. They are widely regarded as being beneficial to plants.

The formation of humic substances is not completely understood. It is known that humic substances arise during the decay of organic materials, which is the reason that humic substances are often associated with coal, lignite, and mudstones. There are several theories as to possible formation pathways (lignin theory, polyphenol theory, and sugar-amine condensation). Generally, humic substances can be further subdivided into three categories: humic acids, fulvic acids, and humins. Humic acid is the major extractable component. With humates being natural substances, there is some variation in composition of the various materials.

There is some confusion as to an exact definition of humic acid. According to

various information, humic acids are colloids, that behave somewhat like clays. Humic acids are macromolecules that are soluble in dilute alkali. They vary from dark brown to black in color. They are amorphous, polymeric substances with molecular weights ranging from 5,000 to 50,000. The cation exchange capacity (the total amount of exchangeable cations a soil can retain) ranges from 200 to 500 milliequivalents per 100 grams of soil at pH 7. When the cation exchange sites are mostly hydrogen, then the material is referred to as humic acid. When the predominant cation is sodium, then the material is referred to as humic acid, sodium salt. Similarly, material would be referred to as humic acid, potassium salt if the predominant cation were potassium.

A. Subchronic Toxicity

The following subchronic toxicity data (National Technical Information Service (NTIS) PB92–164946) was located through an internet search using humic as search term. An abstract is located on the National Library of Medicine Specialized Information Services (NLM/SIS). According to the abstract:

Male and female Sprague-Dawley rats were administered drinking water containing humic acids either non-disinfected or following ozonation (O3) ozonation/chlorination (O32) for 90 consecutive days. Test animals drank either of two concentration of humic acids, 0.25 and 1.0 g/L total organic carbon (TOC), while controls received phosphate-buffered, distilled water. No consistent significant treatment-related effects were observed in body weight gain, organ weights, food or water consumption, or hematological and clinical chemistry parameters. No target organs were identified from the histopathological examination of the tissues. The most significant observation, an increase in liver to body weight ratio for the male animals in the 1.0 g/LO3/CL2 humic acid group, was not observed in any other group, nor was it corroborated via any biochemical measurements or histopathological analysis.

B. Mutagenicity

An abstract discussing the mutagenicity of two coal-derived humic substances (Sulcis and South Africa, Eniricerche, Italy) was located through the NLM/SIS. Their mutagenic activity on TA98 and TA100 *Salmonella typhimurium* strains, both in the presence or the absence of metabolic acitivation (S9) was discussed. Both compounds showed no effect on the two strains, as observed with natural humic acid.

V. Aggregate Exposures

In examining aggregate exposure, FFDCA section 408 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 indooor uses).

EPA establishes exemptions from the requirement of tolerances only in those cases where it can be demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonable foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of tolerance may be established.

A. Dietary Exposure

1. *Food*. Not only are humic substances abundant in nature, but they have been used in commercial agriculture for years to condition soils. Therefore, there is likely a substantial ongoing human dietary exposure to humate materials from these sources and increased dietary exposures from the use of humate materials as an inert ingredient in pesticide formulations is expected to be minimal.

2. *Drinking water exposure*. Humic substances occur in abundance in nature, including soils, fresh water, and oceans. Increased drinking water exposure from the use of humate materials in pesticide formulations would not be expected.

B. Other Non-Occupational Exposure

Humic substances occur in abundance in nature, including soils that are in and around the home. The potential for an increase in the existing non-dietary exposure to the general population, including infants and children, is unlikely as these pestcide formulations containing humate materials would be used in agricultural and horticultural settings.

VI. Cumulative Effects

Section 408(b)(2)(v) of FFDCA requires that, when considering whether to establish, modify or revoke a tolerance or tolerance exemption, the Agency consider ''available information'' concerning the cumulative effects of particular chemical's residues and ''other substances that have a common mechanism of toxicity.'' The Agency has not made any conclusions as to whether or not humic acid, potassium salt shares a common mechanism of toxicity with other chemicals. However, humic acid, potasssium salt is expected to be practically non-toxic to mammals. Due to the expected lack of toxicity, a cumulative risk assessment is not necessary.

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

Humic substances are present in abundance in the soil and the environment. Humic substances have been used in commercial agriculture for years to condition soils. Based on available information on these chemically related substances, the Agency believes that humic acid; humic acid, postassium salt; and humic acid, sodium salt are practically non toxic to mammals. Due to the ubiquitous nature of these naturally occurring materials, and the high molecular weights of the humic materials, no chronic or acute effects are expected to occur. There is no available information to indicate that these naturally occurring substances are carcinogenic, mutagenic, or expected to have any effect on the immune or endocrine systems. Because of its abundance in nature and lack of toxicity, the Agency did not use the safety factor analysis in evaluating the risk posed by humate substances and did not apply an additional tenfold safety factor to protect infants and children.

Based on the information in the preamble, EPA concludes that there is a reasonable certainty of no harm from aggregate exposure to residues of humic acid; humic acid, potassium salt; and humic acid, sodium salt. Accordingly, EPA finds that exempting these humate materials from the requirement of a tolerance will be safe.

IX. Other Considerations

A. Endocrine Disruptors

FQPA requires EPA to develop a screening program to determine whether certain substances, including all pesticide chemicals (both inert and active ingredients), ''may have an effect in humans that is similar to an effect

produced by a naturally occuring estrogen, or such other endocrine effect....'' EPA has been working with interested stakeholders to develop a screening and testing program as well as a priority setting scheme. As the Agency proceeds with implementation of this program, further testing of products containing humic acid, potassium salt for endocrine effects may be required.

B. Analytical Method(s)

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. Existing Exemptions

An exemption from the requirement of a tolerance does exist for humic acid, sodium salt (40 CFR 180.1001(c)) for use as an adjuvant, UV protectant.

D. International Tolerances

The Agency is not aware of any country requiring a tolerance for humic substances nor have any CODEX Maximum Residue Levels (MRLs) been established for any food crops at this time.

X. Conclusions

Based on the information in this preamble, EPA concludes that there is a reasonable certainty of no harm from aggregate exposure to residues of humic acid; humic acid, potassium salt; and humic acid, sodium salt. Accordingly, EPA finds that exempting humate materials from the requirement of a tolerance will be safe.

XI. Statutory and Executive Order Reviews

This proposed rule establishes a consolidated and expanded exemption from the requirement for a tolerance under section 408(d) 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 proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed 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 proposed 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). The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental organizations. After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. Establishing an exemption from the requirement of a pesticide tolerance (or, expanding and consolidating a tolerance exemption, as is proposed today), is in effect, the removal of a regulatory restriction on pesticide residues in food and thus such an action will not have any negative economic impact on any entities, including small entities. 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 proposed 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 proposed 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 proposed 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 proposed rule.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 4, 2003.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I be 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 180.1001 is amended as follows:

i. The table to paragraph (c) is amended by removing the entry for ''humic acid, sodium salt.''

ii. The table in paragraph (d) is amended by adding alphabetically three inert ingredients to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * *	* * *	*
Humic Acid, CAS Reg. No. 1415–93	.....	Adjuvant, UV Protectant
Humic Acid, Potassium salt CAS Reg. No. 68514–28–3	.....	Adjuvant, UV Protectant
Humic Acid, Sodium Salt CAS Reg. No. 68131–04–4	.....	Adjuvant, UV Protectant
* * *	* * *	*

[FR Doc. 03–14881 Filed 6–12–03; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 03–14483, Notice No. 2]

RIN 2127–AH79

Federal Motor Vehicle Safety Standards; Brake Hoses; Correction

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

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document corrects a Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on May 15, 2003. The NPRM proposed to update the Federal motor vehicle safety standard on brake hoses to incorporate the substantive specifications of several Society of Automotive Engineers (SAE) Recommended Practices relating to hydraulic brake hoses, vacuum brake hoses, air brake hoses, and plastic air brake tubing. This correction adds a proposed effective date to the preamble.

FOR FURTHER INFORMATION CONTACT: George Feygin at (202) 366–3992.

Correction

In the notice of proposed rulemaking FR Doc. 03–11292 (68 FR 26384) make the following correction. On page 26406 in the first column, add, before the beginning of the first paragraph the following:

''Effective Date

The agency believes that most, if not all, hoses, tubing, and fittings affected by Standard No. 106 are already designed to meet the SAE specifications we are proposing to add to the standard. The agency is proposing that compliance with the updated version of the standard become mandatory two years after publication of the final rule. NHTSA believes that this date will provide manufacturers with sufficient leadtime to redesign the small proportion of brake hose products that may need modification.''

Issued: June 6, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–14865 Filed 6–12–03; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 030602142–3142–01; I.D. 051403C]

RIN 0648–AQ68

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 17

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 17 to the Pacific Coast Groundfish Fishery Management Plan (FMP). Amendment 17 would revise the Pacific Fishery Management Council's (Council's) annual groundfish management process so that it would become a biennial process. Amendment 17 is intended to ensure that the specifications and management measures process comports with a Court ruling, to make the Council's development process for specifications and management measures more efficient so that more time is available for other management activities, and to streamline the NMFS regulatory process for implementing the specifications and management measures.

DATES: Comments must be submitted in writing by July 28, 2003.

ADDRESSES: Comments on Amendment 17 or supporting documents should be sent to D. Robert Lohn, Administrator, Northwest Region, NMFS, Sand Point Way NE., BIN C15700, Seattle, WA 98115–0070.

Copies of Amendment 17 and the environmental assessment/ regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Ave., Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier (Northwest Region, NMFS), phone: 206–526–6140; fax: 206–526–6736 and; e-mail: *yvonne.dereynier@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also accessible via the Internet at the website of the Office of the **Federal**

Register's website at: *http://www/access/gpo.gov/su__docs/aces140.html*.

Background

NMFS is proposing this rule to implement Amendment 17 to the FMP, which would set the Council's groundfish management process and the NMFS implementation process for specifications and management measures for a biennial period. Amendment 17 would also structure Council development of specifications and management measures so that NMFS has adequate time to implement the biennial specifications and management measures through a notice-and-comment rulemaking. The regulations to implement Amendment 17 would primarily revise references in the Federal groundfish regulations at 50 CFR 660.301–360 to the annual specifications and management measures process so that they reflect the new biennial specifications and management measures process. This proposed rule is based on recommendations of the Council, under the authority of the Pacific Coast Groundfish FMP and the Magnuson-Stevens Fishery Conservation and Management Act. (Magnuson-Stevens Act). The background and rationale for the Council's recommendations are summarized below. Further detail appears in the EA/RIR/IRFA prepared by NMFS for Amendment 17.

Since 1990, the Council has set Pacific coast groundfish harvest levels through an annual regulatory process. This annual process establishes harvest ''specifications,'' which are harvest levels or limits such as acceptable biological catches (ABCs), optimum yields (OYs), or allocations for different user groups. Management measures, such as trip limits, closed times and areas, and gear restrictions are also set in the annual regulatory process. Management measures are partnered with the specifications in the annual process because these measures are specifically designed to allow the fisheries to achieve, but not to exceed, harvest levels established in the specifications.

The Council has historically developed its recommendations for the annual specifications and management measures in a two-meeting process (usually its September and November meetings), followed by a NMFS final action effective January 1 and published in the **Federal Register**. Following publication, this final action was made available for public comment and correction after the effective date of the action. In 2001, NMFS was challenged on this process in *Natural Resources Defense Council, Inc.* v. *Evans* and the Court found that the process violated the Administrative Procedure Act requirement for notice and comment.

NMFS responded in both 2002 and 2003 by publishing the specifications and management measures as a proposed rule, followed by a public comment period and a final rule. In neither year was NMFS able to publish the proposed rule, take public comment, and publish the final rule between the Council's final decision and January 1. Thus for both years, the proposed rule had to be accompanied by an emergency rule to implement groundfish management measures for the period between January 1 and the effective date of the final rule, March 1.

During 2002, the Council considered how it might revise its specifications and management measures development process consistent with the court's ruling in order to allow prior public notice and comment on the specifications and management measures regulatory package. In addition to needing to revise the notice and comment procedure associated with the specifications and management measures, the Council wished to take a new look at efficiency in the annual management process. Groundfish management workload levels have grown in recent years, particularly those associated with setting annual harvest levels for both depleted and healthy stocks. Because of the increasing workload associated with developing specifications and management measures, the Council and NMFS have had less time for addressing many other important groundfish fishery management issues.

NMFS has recently asked all of the fishery management councils to consider how they might streamline their processes for developing regulatory recommendations. To meet this agency-wide request, the Council decided that it would consider whether specifications and management measures could be published for multi-year, rather than single year, periods. To initially investigate both expanded public notice and comment for NMFS specifications regulations and multi-year management periods, the Council created the Ad-Hoc Groundfish Multi-Year Management Committee (Committee.) The Committee included representatives from the fishing industry, the conservation community, the states of Washington, Oregon, and California and NMFS.

The Committee held public meetings in Portland, OR over December 13–14, 2001, and over January 31 - February 1, 2002. During those meetings, the Committee discussed the many issues associated with changing the specifications and management measures notice and comment process and with the possibility of making a transition to multi-year management. In its meetings, the Committee developed a suite of options to address its two management challenges in a potential FMP amendment. At its March 2002 meeting, the Council requested that NMFS analyze the Committee's management options as draft Amendment 17 to the FMP. These options were analyzed and made available to the public for broader comment. Amendment 17 and its associated EA/RIR/IRFA were available for public consideration and discussed by the Council at its June and September 2002 meetings. In November 2002, the Council finalized its recommendations on Amendment 17. The Council's recommendation was for a three-meeting Council process for developing specifications and management measures, a notice and comment period for the harvest specifications, and a biennial management period. Amendment 17 is essentially administrative in nature, and is intended to revise Council and NMFS processes associated with the specifications and management measures. Under Amendment 17, the Council will develop its recommendations for specifications and management measures in a three-meeting process, at their November-April-June meetings for implementation the January 1 following their final decision in June. Once a specifications and management measures package were implemented, it would apply for a two-year period. Harvest specifications like acceptable ABCs and OYs would continue to apply for 1–year periods. For each biennial management period, the ABC/OY for a particular species would be set for each of the two years within that period. However, the management measures established during the biennial process will still be adjusted as the season progresses, in order to achieve but not exceed OYs. If Amendment 17 is approved, the first biennial management period implemented by this FMP amendment would be 2005–2006. Thus by example, specifications and management measures for 2005–2006 would be developed by the Council between November 2003 and June 2004, with notice and comment rulemaking occurring between July 2004 and November 2004, and a final rule becoming effective by January 1, 2005.

NMFS and the states conduct stock assessments on a schedule intended in part to complement the Council's annual specifications and management measures process. Not all groundfish stocks have stock assessments. In general, assessment authors conduct new assessments each year on one-third of those species that have stock assessments. Thus, each assessed species will have a new assessment roughly every three years. Assessment models and results are independently reviewed by the Council's Stock Assessment Review (STAR) panels, which are made up of scientific professionals and reviewers from the Council's groundfish advisory bodies. It is the responsibility of the STAR panels to review draft stock assessment documents and relevant information to determine if they use the best available scientific data effectively to provide a good quality assessment of the condition of the stock. In addition, the STAR panels review the assessment documents to see that they are sufficiently complete and to identify research that may be needed to improve assessments in the future. The STAR process is a key element in an overall process designed to make timely use of new fishery and survey data, to analyze and understand these data as completely as possible, to provide opportunity for public comment, and to assure that the assessment results are as accurate and error-free as possible.

Amendment 17's 2–year management schedule would allow stock assessment authors to revise their assessment schedules such that they deliver assessments on all assessed stocks every other year. New and updated stock assessments would be reviewed through the STAR process prior to the November Council meeting at the start of the Council's management process. In alternate years when stock assessment authors are not delivering assessments to the Council process, they would have time to revise and enhance stock assessment models, as well as to develop new models on habitat and ecosystem functions as they affect groundfish stock status. Under the current process, models and stock assessments are evaluated by the STAR process every year, giving stock assessment authors little time away from the process to consider model refinement.

One of the challenges the Council faced in developing Amendment 17 was how to create a biennial management process that still allowed an annual review of harvest levels against the most recent scientific information. To address this issue, the Council has recommended a process that would take advantage of the initial November specifications development meeting to check current management levels against the most recently available scientific information. For example: The first biennial management cycle would be January 1, 2005, through December 31, 2006, with the second management cycle being January 1, 2007, through December 31, 2008. In 2005, the Council would begin developing specifications and management measures for 2007–2008. The Council would review the new stock assessments intended for the 2007–2008 cycle and check them against the harvest levels they had set for 2006 to ensure that they were adequate to meet rebuilding goals for overfished species and not result in overfishing. The Council will be discussing this process further during 2003 to set parameters for what portions of the specifications and management measures may or may not be revised through this mid-cycle checkpoint process. Depending on the checkpoint process the Council develops, there may be an additional rulemaking associated with Amendment 17.

Revisions to FMP and Federal Regulations Under Amendment 17

Because Amendment 17 deals only with the process by which the Council recommends the specifications and management measures, revisions to the FMP and to Federal regulations are fairly minimal. In the FMP, references to the annual specifications process are revised and the biennial fishing period is defined as being the new time unit for specifications and management measures implementation. Similarly, Federal regulations are proposed to be amended via this rule so that references to the annual management cycle are replaced with references to a biennial management cycle. Amendment 17 does not introduce new regulations or revisions to existing regulations that affect how the groundfish fleets conduct their fishing operations, which is the primary focus of Federal groundfish fishery regulations.

Classification

At this time, NMFS has not determined whether Amendment 17, which this proposed rule would implement, is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. The IRFA is available from NMFS (*see* **ADDRESSES**). A summary of the IRFA follows:

A description of the action, why it is being considered, and the legal basis for this action are contained in the **SUMMARY** and at the beginning of this section of this proposed rule. There are no recordkeeping, reporting, or other compliance issues forthcoming from this proposed rule. This proposed rule does not duplicate, overlap, or conflict with other Federal rules.

A fish-harvesting business is considered a ''small'' business by the Small Business Administration (SBA) if it has annual receipts not in excess of $3.5 million. Approximately 2,000 commercial vessels participate in the West Coast groundfish fisheries. Of those, about 500 vessels are registered to limited entry permits issued for either trawl, longline, or pot gear. About 1,500 vessels land groundfish against open access limits while either directly targeting groundfish or taking groundfish incidentally in fisheries directed at non-groundfish species. All but 10–20 of those vessels are considered small businesses by the SBA. Since this is an administrative action, this proposed rule is not expected to yield disproportionate economic impacts between those small and large entities. In the 2001 recreational fisheries, there were 77 Washington charter vessels engaged in salt water fishing outside of Puget Sound, 232 charter vessels active on the Oregon coast and 415 charter vessels active on the California coast.

This rule is administrative in nature and is expected to have only a minimal economic impact on small entities. The proposed rule would maximize time for stock assessment scientists, Council staff, and NMFS staff to prepare documentation needed to implement specifications and management measures without disrupting the historic January 1 season start date. Under the proposed measure, vessel operators should be able to take advantage of whichever seasonal markets best fit their needs. Small vessel operators should not be forced to fish during inclement weather because of concerns about fishery closures during spring and summer months. Vessel operators afforded the privilege of fishing for both Dungeness crab and groundfish, or groundfish and shrimp, should be able to time their fishing trips

based on the migratory patterns of their target species and the needs of their own marketing strategies and those of their associated processors. While implementing multi-year groundfish management will not alleviate all season-related management problems for fisheries participants, it should be a positive step toward improving the stability and certainty of seasonal groundfish allocations for participating harvesters. The improved science and management made possible with multi-year planning will help mitigate the closure cycle by stabilizing groundfish allocations and landings throughout the season.

The Council considered 4 alternatives to the proposed measure including a status quo alternative. All alternatives, with the exception of the status quo, would implement biennial specifications. Two of these alternatives considered a March 1 start date with different Council meeting schedules, and one alternative considered a May 1 start date. Given closure trends under the status quo, a March 1 start date would likely result in early allocation attainment and closures during December-February. The negative effects of this closed period would primarily be felt by vessels and processors that rely on the mid-winter flatfish fishery. Many West Coast flatfish species aggregate more closely during the winter months, lowering the bycatch rates of non-flatfish species in flatfish-directed fisheries. As with the status quo, recreational fishing tends to be slow during the winter months. Given closure trends under the status quo, a May 1 start date would likely result in early allocation attainment and closures during February-April period. This schedule would keep the fisheries open through stronger flatfish months and allow participants to switch between flatfish and Dungeness crab at will. A February-April groundfish closure could also have the negative effect of a very lean 3–month period between Dungeness crab fishing/processing season and the shrimp, salmon and albacore seasons. For some of the small boat fishers, this alternative could also mean a lack of fishing opportunity in their traditional start-up fishing months. Early spring recreational fishing opportunities could also be curtailed under this schedule.

The economic effects of changing the fishing year start date vary with each option and vary by which fishery sectors they affect. In general, the difference between the economic effects of a January 1 start date and a March 1 start date are neutral. A May 1 start date, however, would notably shift fishing effort and could result in small businesses having to reconsider their business practices and reschedule their fishing operations.

The Council will retain a one-year specification of ABC and OY. This represents no change and will have no economic impact to vessels affected by the proposed rule. The Council also considered a two-year specification period. However, since early attainment of OY could lengthen closure periods under a two-year specification of these targets, this alternative would be expected to have a potentially adverse economic impact on vessel profitability. With two-year OYs, management measures would need to be more conservative at the start of the two-year fishing period to hedge against early closures during the second year in the fishing period. The Council also considered a mixture of one-year and two-year specifications for different groundfish species. This approach could also have a potentially adverse economic impact on vessel profitability for vessels fishing under two-year specifications for the reasons listed above.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: June 9, 2003.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

l. The authority citation for part 660 continues to read as follows:

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

2. In § 660.302, a new definition for ''Biennial fishing period'' is added and the definitions for ''Fishing year,'' and ''Reserve,'' are revised to read as follows:

§ 660.302 Definitions.

* * * * *

Biennial fishing period means a 24–month period beginning at 0001 local time on January 1 and ending at 2400 local time on December 31 of the subsequent year.

* * * * *

Fishing year is the year beginning at 0001 local time on January 1 and ending at 2400 local time on December 31 of the same year. There are two fishing years in each biennial fishing period.

* * * * *

Reserve means a portion of the harvest guideline or quota set aside at the beginning of the fishing year or biennial fishing period to allow for uncertainties in preseason estimates.

* * * * *

3. In § 660.321, paragraphs (a) through (c) are revised to read as follows:

§ 660.321 Specifications and management measures.

(a) *General.* NMFS will establish and adjust specifications and management measures biennially or annually and during the fishing year. Management of the Pacific Coast groundfish fishery will be conducted consistent with the standards and procedures in the PCGFMP and other applicable law. The PCGFMP is available from the Regional Administrator or the Council.

(b) *Biennial actions.* The Pacific Coast Groundfish fishery is managed on a biennial, calendar year basis. Harvest specifications and management measures will be announced biennially, with the harvest specifications for each species or species group set for two sequential calendar years. In general, management measures are designed to achieve, but not exceed, the specifications, particularly optimum yields (harvest guidelines and quotas), commercial harvest guidelines and quotas, limited entry and open access allocations, or other approved fishery allocations, and to protect overfished and depleted stocks.

(c) *Routine management measures.* Management measures designated ''routine'' at § 660.323(b) may be adjusted during the fishing year after recommendation from the Council, approval by NMFS, and publication in the **Federal Register**.

* * * * *

4. In § 660.323, paragraphs (a)(2)(ii)(C)(*1*), (a)(3)(i)(A)(*1*), (a)(3)(vi) introductory text, paragraph (b) introductory text, and paragraphs (b)(1)(i) introductory text and (b)(1)(ii) are revised to read as follows:

§ 660.323 Catch restrictions.

(a)* * *

(2)* * *

(ii)* * *

(C) *Cumulative limits.* (*1*) A vessel participating in the primary season will be constrained by the sablefish cumulative limit associated with each of the permits registered for use with that vessel. The Regional Administrator will

biennially or annually calculate the size of the cumulative trip limit for each of the three tiers associated with the sablefish endorsement such that the ratio of limits between the tiers is approximately 1:1.75:3.85 for Tier 3:Tier 2:Tier 1, respectively. The size of the cumulative trip limits will vary depending on the amount of sablefish available for the primary fishery and on estimated discard mortality rates within the fishery. The size of the cumulative trip limits for the three tiers in the primary fishery will be announced in the **Federal Register**.

* * * * *

(3)* * *

(i)* * *

(A)* * *

(*1*) *Procedures.* The primary seasons for the whiting fishery north of 40°30′ N. lat. generally will be established according to the procedures of the PCGFMP for developing and implementing harvest specifications and apportionments. The season opening dates remain in effect unless changed, generally with the harvest specifications and management measures.

* * * * *

(vi) *Bycatch reduction and full utilization program for at-sea processors (optional).* If a catcher/processor or mothership in the whiting fishery carries more than one NMFS-approved observer for at least 90 percent of the fishing days during a cumulative trip limit period, then groundfish trip limits may be exceeded without penalty for that cumulative trip limit period, if the conditions in paragraph (a)(3)(vi)(A) of this section are met. For purposes of this program, ''fishing day'' means a 24–hour period, from 0001 hours through 2400 hours, local time, in which fishing gear is retrieved or catch is received by the vessel, and will be determined from the vessel's observer data, if available. Changes to the number of observers required for a vessel to participate in the program will be announced prior to the start of the fishery, generally concurrent with the harvest specifications and management measures. Groundfish consumed on board the vessel must be within any applicable trip limit and recorded as retained catch in any applicable logbook or report. [Note: For a mothership, non-whiting groundfish landings are limited by the cumulative landings limits of the catcher vessels delivering to that mothership.]

* * * * *

(b) *Routine management measures.* In addition to the catch restrictions in this section, other catch restrictions that are likely to be adjusted on a biennial or more frequent basis may be imposed and announced by a single notification in the **Federal Register** if good cause exists under the APA to waive notice and comment, and if they have been designated as routine through the two-meeting process described in the PCGFMP. The following catch restrictions have been designated as routine:

(1) *Commercial limited entry and open access fisheries—(i) Trip landing and frequency limits, size limits, all gear.* Trip landing and frequency limits have been designated as routine for the following species or species groups: widow rockfish, canary rockfish, yellowtail rockfish, Pacific ocean perch, yelloweye rockfish, splitnose rockfish, bocaccio, cowcod, minor nearshore rockfish or shallow and deeper minor nearshore rockfish, shelf or minor shelf rockfish, and minor slope rockfish; DTS complex which is composed of Dover sole, sablefish, shortspine thornyheads, and longspine thornyheads; petrale sole, rex sole, arrowtooth flounder, Pacific sanddabs, and the flatfish complex, which is composed of those species plus any other flatfish species listed at § 660.302; Pacific whiting; lingcod; and ''other fish'' as a complex consisting of all groundfish species listed at § 660.302 and not otherwise listed as a distinct species or species group. Size limits have been designated as routine for sablefish and lingcod. Trip landing and frequency limits and size limits for species with those limits designated as routine may be imposed or adjusted on a biennial or more frequent basis for the purpose of keeping landings within the harvest levels announced by NMFS, and for the other purposes given in paragraph (b)(1)(i)(A) and (B) of this section.

* * * * *

(ii) *Differential trip landing and frequency limits based on gear type, closed seasons.* Trip landing and frequency limits that differ by gear type and closed seasons may be imposed or adjusted on a biennial or more frequent basis for the purpose of rebuilding and protecting overfished or depleted stocks.

* * * * *

5. In § 660.324, paragraphs (d) and (j) are revised to read as follows:

§ 660.324 Pacific Coast treaty Indian fisheries.

* * * * *

(d) *Procedures.* The rights referred to in paragraph (a) of this section will be implemented by the Secretary, after consideration of the tribal request, the recommendation of the Council, and the comments of the public. The rights will be implemented either through an allocation of fish that will be managed by the tribes, or through regulations in this section that will apply specifically to the tribal fisheries. An allocation or a regulation specific to the tribes shall be initiated by a written request from a Pacific Coast treaty Indian tribe to the Regional Administrator, prior to the first Council meeting in which biennial harvest specifications and management measures are discussed for an upcoming biennial management period. The Secretary generally will announce the annual tribal allocations at the same time as the announcement of the harvest specifications. The Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Accordingly, the Secretary will develop tribal allocations and regulations under this paragraph in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

* * * * *

(j) *Black rockfish.* Harvest guidelines for commercial harvests of black rockfish by members of the Pacific Coast Indian tribes using hook and line gear will be established biennially for two subsequent one year periods for the areas between the U.S.-Canadian border and Cape Alava (48°09′30″ N. lat.) and between Destruction Island (47°40′00″ N. lat.) and Leadbetter Point (46°38'10′ N. lat.), in accordance with the procedures for implementing harvest specifications and management measures. Pacific Coast treaty Indians fishing for black rockfish in these areas under these harvest guidelines are subject to the provisions in this section, and not to the restrictions in other sections of this part.

* * * * *

6. In § 660.332, paragraphs (a), (b)(3), and (e) are revised to read as follows:

§ 660.332 Allocations.

(a) *General.* The commercial portion of the Pacific Coast groundfish fishery, excluding the treaty Indian fishery, is divided into limited entry and open access fisheries. Separate allocations for the limited entry and open access fisheries will be established biennially or annually for certain species and/or areas using the procedures described in this subpart or the PCGFMP.

* * * * *

(b) * * *

(3) The guidelines in this paragraph (b)(3) apply to recalculation of the open access allocation percentage. Any recalculated allocation percentage will be used in calculating the following biennial fishing period's open access allocation.

* * * * *

(e) *Treaty Indian fisheries.* Certain amounts of groundfish may be set aside biennially or annually for tribal fisheries prior to dividing the balance of the allowable catch between the limited entry and open access fisheries. Tribal fisheries conducted under a set-aside are not subject to the regulations governing limited entry and open access fisheries.

* * * * *

7. In § 660.333, paragraph (c)(2) is revised to read as follows:

§ 660.333 Limited entry fishery eligibility and registration.

* * * * *

(c) * * *

(2) The major limited entry cumulative limit periods will be announced in the **Federal Register** with the harvest specifications and management measures, and with routine management measures when the cumulative limit periods are changed.

* * * * *

8. In § 660.350, paragraph (a)(6) is revised to read as follows:

§ 660.350 Compensation with fish for collecting resource information—exempted fishing permits off Washington, Oregon, and California.

(a) * * *

(6) *Accounting for the compensation catch.* As part of the harvest specifications process (§ 660.321), NMFS will advise the Council of the amount of fish authorized to be retained under a compensation EFP, which then will be deducted from the next harvest specifications (ABCs) set by the Council. Fish authorized in an EFP too late in the year to be deducted from the following year's ABCs will be accounted for in the next management cycle practicable.

* * * * *

[FR Doc. 03–15030 Filed 6–12–03; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 68, No. 114
Friday, June 13, 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

Commodity Credit Corporation

Grassland Reserve Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of availability of program funds for the Grassland Reserve Program.

SUMMARY: The Commodity Credit Corporation (CCC) announces the availability of $49,492,000 to implement the Grassland Reserve Program (GRP) in fiscal year 2003. Section 2401 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171) amended the Food Security Act of 1985 to authorize this program. The Secretary of Agriculture delegated the authority to administer GRP on behalf of the CCC, to the Administrator, Farm Service Agency (FSA) and the Chief, Natural Resources Conservation Service (NRCS). These agency leaders are officers of the CCC.

Although this notice applies only to funds made available in FY2003, CCC will, at a later date, issue a regulation for FY 2004 through FY 2007 program implementation. The rule will address and seek comment on a number of issues including: the process for establishing program priorities and criteria; the administration of easements and long-term contracts; the process of allocating and focusing funding at State and local levels; and the process for private organizations and State agencies to apply to hold and enforce GRP easements.

DATES: Funds will be available from June 30, 2003 through September 30, 2003.

ADDRESSES: Address all comments to Charles Whitmore, Acting Director, Conservation Operations Division, Natural Resources Conservation Service, P.O. Box 2890, Washington, DC 20013, (202) 720–1845, fax 202–720–4265; Submit electronic comments to *FarmBillRules@usda.gov;* Attn: Grassland Reserve Program.

FOR FURTHER INFORMATION CONTACT: Leslie Deavers, Watersheds and Wetlands Division, Natural Resources Conservation Service, P.O. 2890, Washington, DC 20013, (202) 720–1067, fax (202) 720–2143, e-mail: *leslie.deavers@usda.gov.*

SUPPLEMENTARY INFORMATION: Grasslands constitute the largest land cover on America's private lands. Privately-owned grasslands and shrublands cover more than 525 million acres in the United States. These lands contribute significantly to the economies of many regions, provide biodiversity of plant and animal populations, and play a key role in environmental quality. Specifically, grasslands and shrublands impact water quantity and quality and, when properly managed, can result in cleaner water supplies, healthy riparian areas, reduce potential for flooding, and control sediment loadings in streams and other water bodies. These lands are vital for the production of forage for domestic livestock, and provide forage and habitat for maintaining healthy wildlife populations. These lands also improve the aesthetic character of the landscape, provide scenic vistas and open space, provide recreational opportunities, and protect the soil from water and wind erosion.

Large expanses of grassland acreage are annually threatened by conversion to other land uses such as cropland and urban development. Approximately 23 million acres of grassland and shrubland were converted to cropland between 1982 and 1997, and about six million acres were converted to urban and other uses (1997 NRI).

Background

Section 2401 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171) amended the Food Security Act of 1985 to authorize GRP (16 U.S.C. 3838n–3838q). The purpose of the program is to assist landowners with restoring and conserving grassland, rangeland, pastureland, and certain other lands. The statute provides that no more than two million acres of restored or improved grassland, rangeland, and pastureland can be enrolled in the program through FY 2007. The program offers landowners the option to grant an easement to the Secretary or enter into a long-term agreement to preserve and protect the ecological benefits of eligible land.

The GRP statute requires the Secretary to consider grazing operations, biodiversity, and grassland under the greatest threat of conversion when evaluating and ranking applications. In FY 2003, CCC plans to use GRP to protect grazing lands from conversion and support efforts to maintain or enhance biodiversity.

Although CCC is implementing the program nationwide in FY2003, it recognizes that with limited funding and large pool of eligible acreage, nationwide implementation may result in a large number of applications remaining unfunded. Therefore, the application selection criteria are critical to ensure only the highest priority areas are protected.

Definitions

For the purposes of this notice, the following definitions apply.

Conservation plan means a record of the decisions, and supporting information, for the conservation treatment of a unit of land or water. The conservation plan includes the schedule of operations, activities, and estimated expenditures, if needed to solve identified natural resource concerns.

Eligible applicant means the landowner(s) for easement applications because only a landowner can transfer land rights. Easement applications will only be considered when the applicant can provide evidence of ownership. For annual rental agreements, eligible applicant means both landowners and operators who have evidence of control of the land for the agreement period.

Eligible practices means any practice identified in the NRCS Field Office Technical Guide (FOTG) that enhances or restores native grasses, forbs, or shrubs as determined by the NRCS State Conservationist.

Fair market value for easement acquisition means the amount determined through a real property appraisal that will be used to calculate the offer to the participant. Fair market value is the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of the appraisal, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and

reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal. For the purposes of GRP, the fair market value will be determined by an appraisal, or other method determined reasonable by CCC, less the grazing value. Grazing values will be determined by CCC based on appraised grazing values.

Forb means any herbaceous plant other than those in the grass family.

Grassland means land on which the vegetation is dominated by grasses, grass-like plants and/or forbs.

Grazing values for rental agreements will be determined by CCC based on local prevailing grazing values.

Rangeland means land on which the native vegetation (climax or natural potential) is predominantly grasses, grass-like plants, forbs, or shrubs suitable for grazing or browsing use. Rangelands include natural grassland, savannas, most deserts, tundra, alpine plant communities, coastal marshes, wet meadows and introduced plant communities managed like rangeland.

Restored grassland means acreage restored from cropland, non-native grasses, or some other vegetative cover to native grass, forbs or shrubs. When native seed is not available, plants that provide similar functions and values for the intended use are permitted.

Shrubland means a type of rangeland dominated by small woody perennial plants.

Program Requirements

Effective upon the publication date of this notice, CCC announces the availability of $49,942,000 for GRP, from June 30, 2003 until September 30, 2003. Applications for participation will be accepted on a continual basis throughout this period at local USDA Service Centers from landowners of private land. NRCS State Conservationists will establish funding cut-off periods throughout FY 2003 to batch and select applications. These cut-off periods will be available in program outreach material provided by CCC. Once funding levels have been exhausted, eligible applicants will remain on file until additional funding becomes available or the applicant chooses to be removed from consideration.

GRP contracts and easements prohibit: (1) The production of crops (other than hay), fruit trees, vineyards, or any other agricultural commodity that requires breaking the soil surface; and (2) any other activity that would disturb the surface of the land except for appropriate land management activities identified in the easement or agreement. For applicants who are interested in restoring grasslands, forbs, and shrublands, the program offers an opportunity to enroll in restoration agreements.

The GRP statute provides that eligible land includes grasslands; land that contains forbs; shrubland, including improved rangeland and pastureland; or, land that is located in an area that has been historically dominated by grassland, forbs or shrubland when these lands have the potential to enhance plant and animal biodiversity. Other eligible land includes land that is incidental to the eligible land when it is considered necessary by CCC for the efficient administration of an agreement or easement.

Applicants may submit applications for easements, rental agreements, and restoration agreements. Offers for participation must include no less than 40 contiguous acres, unless CCC determines a small parcel is appropriate to achieve the purposes of the program. When selecting offers of eligible lands, CCC shall emphasize support for grazing operations; plant and animal biodiversity; and other eligible land under the greatest threat of conversion. The conversion threat may include conversion to agriculture or non-agriculture uses.

Pursuant to section 1604 of the Farm Security and Rural Investment Act of 2002, benefits under this part shall not be available to a person whose adjusted gross income exceeds $2.5 million, as determined under the standards set forth in 7 CFR part 1400.

Enrollment Options

The GRP offers applicants multiple enrollment options. Landowners may submit applications for permanent easements or 30-year easements. Landowners and others who have general control of the acreage being offered may submit applications for 10-year, 15-year, 20-year, or 30-year rental agreements. Each enrollment option permits: (1) Common grazing practices, including maintenance and necessary cultural practices, that are consistent with maintaining the viability of grassland, forb and shrub species common to the local area; (2) haying, mowing, or harvesting for seed production, subject to certain restrictions, such as restrictions during the nesting season of bird species that are in significant decline or those that are required to be protected under Federal or State law, as determined by NRCS or its designee; and (3) fire rehabilitation and the construction of fire breaks and fences. Participants will be required to follow a conservation plan, developed by NRCS or its designee, and the participant, to preserve the integrity of the grassland enrolled in the program.

For easement offers, land is considered enrolled after CCC makes a tentative offer of acceptance, and the landowner signs an intent to continue in the program. For rental agreement offers, the land is considered enrolled after a GRP contract is approved by CCC.

Additional Requirements for Easements

CCC shall use a standard easement deed that is available on-line at *http://www.sc.egov.usda.gov.*

In addition to the requirements identified in the ''Program Requirements'' section, landowners who participate in an easement enrollment option agree to:

(1) Provide written statement of consent to the easement signed by persons holding a security interest or any vested interest in the land;

(2) Provide proof of clear title;

(3) Comply with other terms of the easement; and

(4) Provide access to NRCS or its representative for easement administration and monitoring activities on the property.

Funding Allocations

The GRP statute requires that of the total amount of funds expended under the program to acquire easements and rental agreements, 60 percent of the program funds are to be used for easements and 30-year agreements and 40 percent of the funds are to be used for 10-year, 15-year, and 20-year rental agreements.

CCC may divide the $49,942,000 into two equal pools. Fifty percent of the funds will be distributed to the USDA State office in proportion to the number of grazing operations, the acres of pasture and rangeland under the threat of conversion, and biodiversity considerations. The remaining funds may be held in a national reserve. This reserve will be distributed after program demand, expressed in terms of the number of applicants, acres, and estimated cost to enroll the land, and, ecological considerations, such as biodiversity and threat of grassland conversion, are known. If the State office is unable to use its allocation, CCC may redistribute funds to other States that can obligate the funds to eligible projects prior to September 30, 2003.

Application Process

CCC will consider for funding under this notice applications received throughout FY 2003. USDA will widely distribute information on the availability of assistance through GRP, State, and National goals, and information needed to submit applications. Applicants must submit an application, Form AD–1153, Application for Long-Term Contracted Assistance, to CCC to be considered for participation. Program applications can be obtained from any local USDA Service Center or on the USDA website at *http://www.sc.egov.usda.gov.* Applications should be submitted to the office that administers the records for the area in which the land being offered for participation is located. Applications may be submitted by mail, fax, or electronically to a USDA Service Center. USDA will evaluate the application for eligibility and complete an application ranking process. Selection of individual applications will be made at the State level as described below.

Application Selection

CCC is required by statute to emphasize support for grazing operations; plant and animal biodiversity; and grassland, land that contains forbs, and shrubland under the greatest threat of conversion. Selection criteria which incorporates these areas of emphasis, will be developed at the State level by the NRCS State Conservationist and the FSA State Executive Director, with advice from the State Technical Committee. Individual application selection will be made at the State level by the NRCS State Conservationist and the FSA State Executive Director. Selection criteria for each State will be made available to the public prior to signup upon request. Each State's application selection criteria will be available on the NRCS Web site at *http://www.nrcs.usda.gov/farmbill* and *http://www.fsa.usda.gov/dafp/grp.*

Selection criteria will, at a minimum, consider the following national criteria: the threat of conversion from grass to cropland; the threat of conversion from grass to non-agriculture use; location significance; whether the land is part of an existing grazing operation; and whether the site serves as habitat that promotes and enhances plant and animal biodiversity, as determined by the NRCS State Conservationist, with advice from the State Technical Committee.

State offices have the flexibility to determine state-specific criteria that emphasizes grasslands of state significance or locations of critical need based on the threat of conversion or biodiversity of plant or wildlife populations.

Payments

For permanent easement acquisition, CCC will provide payment equal to the fair market value of the land, less the grazing value of the land encumbered by the easement. Market values will be determined using an appraisal process. In addition, CCC will provide all the administrative costs associated with recording the easement, including appraisal fees, survey costs, title insurance, and recording fees. For 30-year easements, CCC will provide payment equal to 30 percent of the fair market value of the land, less the grazing value of the land for the period during which the land is encumbered by the easement. Easement payments may be provided, at the participant's request, in lump sum or annual payments (equal or unequal amounts) for no more than 10 years.

For long-term rental agreements, annual rental payments will be an amount not more than 75 percent of the grazing value of the land covered by the agreement for the life of the agreement, as determined by CCC. Payments will be disbursed on the agreement anniversary date of each Federal fiscal year.

For restoration agreements, CCC will provide up to 90 percent of the restoration costs on lands that have never been cultivated, and up to 75 percent of the cost on restored grasslands. Restoration agreements can be entered into in conjunction with either easement projects or rental agreements. Participants will be paid upon certification of the completion of the approved practice(s) by NRCS or an approved third party. Participants may contribute to the application of a cost-share practice through in-kind contributions. Eligible in-kind contributions include: personal labor; use of personal equipment; donated labor or materials; and use of on-hand or used materials that meet the requirements for the practice to be installed. The participant's share of the project may be provided by a public or private third party.

Participants may assign the right to receive any payments described in this notice, in whole or in part, as provided in 7 CFR part 1404.

Subject to 7 CFR part 1403, any payment under this notice or portion thereof due any person under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien in favor of any creditor, except agencies of the United States Government.

Delegation of Easement Administration to Private Organizations

The GRP statutory authority provides that the Secretary may permit a private conservation or land trust organization or a State agency to hold and enforce an easement provided that: (1) Granting permission will promote protection of eligible land; (2) the owner authorizes the private organization or State agency to hold and enforce the easement; and (3) the private organization or State agency agrees to assume the costs incurred in administering and enforcing the easement, including costs of restoration or rehabilitation of the land, as specified by the owner and the private organization. In addition, permission is contingent upon the Secretary having the right to conduct periodic inspections, and provide enforcement action, if the private organization is unable to effectively implement enforcement action. The provisions for implementing this authority will be addressed in a proposed rule to be published later this year. The GRP authority is different than the authority provided for the Farm and Ranchland Protection Program (FRPP). Under FRPP the Secretary has the authority to acquire an interest in property that is subject to a pending offer by another entity. In GRP, the Secretary is the holder of the easement and may delegate the easement administration responsibilities to a private organization.

Violations

When the terms or conditions of an easement, rental agreement, or restoration agreement are violated, the easement or rental agreement will remain in force. For rental agreements or restoration agreements, CCC may require the participant to refund all or part of any payments received, with interest. For easement violations, USDA reserves the right to enter upon the easement area at any time to remedy deficiencies or easement violations, even under situations where a third party assumed administrative responsibility for the easement. Such entry may be made at the discretion of USDA when such actions are deemed necessary to protect important grassland areas.

Civil Rights

CCC and USDA have collected civil rights data on farmers and ranchers who participate in conservation programs. Based on past participation, it is estimated that the funding being made

available with this notice will not negatively or disproportionately affect minorities, women, or persons with disabilities who are program beneficiaries or applicants for program benefits.

Environmental Evaluation

On each farm or ranch, during the application evaluation process, the environmental effects of any proposed actions are evaluated on a case-by-case basis. That evaluation is used to determine whether further environmental analysis is required. Accordingly, neither an EA nor an EIS has been prepared for this notice.

Executive Order 12866

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

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

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

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

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

Pursuant to the terms of the Executive Order 12866, it has been determined that this Notice of Fund Availability is not a ''significant regulatory action''.

Signed in Washington, DC, on June 1, 2003.

Bruce I. Knight,

Vice President, Commodity Credit Corporation, Chief, Natural Resources Conservation Service.

[FR Doc. 03–14977 Filed 6–12–03; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Request for Applications (RFA): Risk Management and Crop Insurance Education

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Announcement of availability of funds and request for applications under two programs—(1) Commodity Partnerships for Risk Management Education and (2) Crop Insurance Education in Targeted States.

SUMMARY: In accordance with sections 552(d) and 524(a) of the Federal Crop Insurance Act (Act), the Federal Crop Insurance Corporation (FCIC), operating through the Risk Management Agency (RMA), announces the availability of funding for two educational and informational programs:

1. Commodity Partnerships for Risk Management Education (Commodity Partnerships program). FCIC announces the availability of up to $3.5 million for partnership agreements for risk management training and informational activities, with a priority for reaching agricultural producers of (a) agricultural commodities covered by section 196 of the Agricultural Market Transition Act (7 U.S.C. 7333); (b) specialty crops; and (c) underserved commodities. (For purposes of these announcements, these commodities are collectively referred to as ''Priority Commodities.'') A maximum of thirty-nine partnership agreements will be funded: One in each of thirty-five specific States, one in Puerto Rico, and one in each of three multi-state areas. Recipients of awards must demonstrate non-financial benefits from a partnership agreement and must agree to the substantial involvement of RMA in the project.

2. Crop Insurance Education in Targeted States (Targets States program). FCIC announces the availability of up to $4.25 million for cooperative agreements that will be used to conduct crop insurance education and information programs in fifteen States that have been determined to have low participation or are underserved by the Federal crop insurance program. The fifteen States are Connecticut, Delaware, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming. Funding will be limited for each of the fifteen States and a maximum of one cooperative agreement will be funded for each State. Recipients of awards must agree to the substantial involvement of RMA in the project.

Awards under both of these programs will be made on a competitive basis for projects of up to one year. This announcement lists the information needed to submit an application under either of these programs.

CLOSING DATES: The closing date and time for receipt of applications for both programs is 5 p.m. EDT on July 28, 2003. Applications received after the deadline will not be evaluated by the technical review panel.

FOR FURTHER INFORMATION CONTACT: Applicants and other interested parties are encouraged to contact: Michelle Fuller, USDA–RMA–RME, 1400 Independence Ave. SW., Stop 0808, (Portals Bldg., Suite 508), Washington, DC 20250–0808, phone: 202–720–6356, fax: 202–690–3605, e-mail: *michelle.fuller@wdc.usda.gov.* You may also obtain information regarding this announcement from the RMA website at: *http://www.rma.usda.gov.*

Applicants may download an application package for either of the two programs from the RMA Web site at: *http://www.rma.usda.gov.* Applicants may also request an application package from: Michelle Fuller, USDA–RMA–RME, 1400 Independence Ave. SW., Stop 0808, (Portals Bldgs., Suite 508), Washington, DC 20250–0808, phone: 202–720–6356, fax: 202–690–3605, email:*michelle.fuller@wdc.usda.gov. <mailto:michelle.fuller@wdc.usda.gov.>*

Applicants are strongly encouraged to submit completed and signed application packages using overnight mail or delivery service to ensure timely receipt by the USDA. The applicable address for such submissions is: RME Agreement Programs, c/o Michelle Fuller, USDA–RMA–RME, 1250 Maryland Ave. SW., Suite 508, Washington, DC 20024.

Completed and signed application packages sent via the U.S. Postal Service must be sent to the following address: RME Agreement Programs, c/o Michelle Fuller, USDA–RMA–RME, 1400 Independence Ave. SW., Stop 0808, (Portals Bldg. Suite 508), Washington, DC 20250–0808. Applicants using the U.S. Postal Service should allow for extra security-processing time for mail delivered to government offices.

Paperwork Reduction Act

Under the provisions of the Paperwork Reduction Act of 1995, as amended (44 U.S.C. chapter 25), the collection of information requirements contained in this announcement have been approved under OMB Document Nos. 0348–0043, 0348–0044, 0348–0046, and 0348–0040.

The Catalog of Federal Domestic Assistance Number for these programs is 10.450.

SUPPLEMENTARY INFORMATION: This announcement consists of five parts:

Part I—Information for the Commodity Partnerships Program

A. General Information
1. Legislative Authority
2. Background
3. Project Goal
4. Purpose
5. Definition of Priority Commodities
B. Eligibility/Funding
1. Eligible Applicants
2. Non-financial Benefits
3. Project Period
4. Availability of Funds and Amounts
C. Program Description
1. Recipient Activities
2. RMA Activities
3. Other Activities

Part II—Information for the Targeted States Program

A. General Information
1. Legislative Authority
2. Background
3. Project Goal
4. Purpose
B. Eligibility/Funding
1. Eligible Applicants
2. Project Period
3, Availability of Funds and Amounts
C. Program Description
1. Recipient Activities
2. RMA Activities
3. Other Activities

Part III—Preparation of an Application

A. Program Application Materials
B. Content of Applications
C. Submission of Applications
D. Acknowledgment of Applications

Part IV—Review Process

A. General
B. Evaluation Criteria and Weights
C. Confidentiality

Part V—Additional Information

A. Requirement to Use Program Logo
B. Requirement to Provide Project Information to an RMA-selected Contractor
C. Private Crop Insurance Organizations and Potential Conflicts of Interest
D. Access to Panel Review Information
E. Notification of Cooperative Agreement Awards
F. Confidential Aspects of Proposals and Awards
G. Reporting Requirements
H. Audit Requirements
I. Prohibitions and Requirements with Regarding to Lobbying
J. Applicable OMB Circulars

Part I—Information for the Commodity Partnership Program

A. General Information

1. Legislative Authority

The Commodity Partnership program is authorized under section 552(d)(3)(F) of the Federal Crop Insurance Act (Act).

2. Background

RMA promotes and regulates sound risk management solutions to improve the economic stability of American agriculture. On behalf of FCIC, RMA does this by offering Federal crop insurance products through a network of private-sector partners, overseeing the creation of new risk management products, seeking enhancement in existing products, ensuring the integrity of crop insurance programs, offering outreach programs aimed at equal access and participation of underserved communities, and providing risk management education and information.

One of RMA's four strategic goals is to ensure that its customers are well informed as to the risk management solutions available. This educational goal is supported by section 522(d)(3)(F) of the Act, which authorizes FCIC funding for risk management training and informational efforts for agricultural producers through the formation of partnerships with public and private organizations. With respect to such partnerships, a priority is to be given to producers of Priority Commodities (as specified in subsection 5 of this section).

3. Project Goal

The goal of this program is to ensure that ''* * * producers will be better able to use financial management, crop insurance, marketing contracts, and other existing and emerging risk management tools.''

4. Purpose

The purpose of this program is to provide U.S. farmers and ranchers (with an emphasis on producers of Priority Commodities) with training and informational opportunities to be able to understand:

- The kinds of risks addressed by existing and emerging risk management tools;
- The features and appropriate use of existing and emerging risk management tools; and
- How to make sound risk management decisions.

Each partnership agreement awarded through this program will provide the applicant with funds, guidance, and the substantial involvement of RMA to carry out a risk management education and information program for producers in a specific geographical area. RMA envisions that most of the training and informational activitiers under these partnership agreements will be conducted during the November 2003 through March 2004 period, which will be the best time to reach producers with educational programs in most areas. However, activities are not restricted to this time period because certain groups of producers might benefit from a different schedule of educational activities. RMA anticipates that project leaders will have sufficient time to organize and schedule events, commit funds to reserve event facilities, gather materials, raise awareness, and otherwise make the preparations needed to ensure good producer participation in all planned educational activities. Most of all, RMA anticipates that project leaders will prepare by fostering the cooperation and active support of organizations with close ties to local producers. Support from such organizations is essential in influencing local producers to participate in the type of activities envisioned in this educational program. A maximum of thirty-nine partnership agreements will be awarded: One each in thirty-five specific States and one in Puerto Rico (collectively referred to as the ''States''), and one each in three multi-state areas (referred to as the ''area''). A maximum amount of funding will be available for each of the States and area. The specific States and areas are identified in part I.B.4.

Projects funded through this program are envisioned to include the participation of multiple and diverse partners within the specific States and areas. Partners should include public and private agricultural organizations in the State or area with a state in ensuring that agricultural producers have increased knowledge and skill in dealing with production, price, and financial risk. RMA specifically encourages applicants to address the needs of beginning farmers and ranchers as an important element of the project. Over the past year, livestock and forage producers and livestock producers who use rangeland in certain regions of the U.S. have suffered unusually large financial losses from the effects of prolonged drought. These producers are in special need of education and information on the programs, tools, and risk management strategies that will assist them in dealing with drought. Therefore, RMA is specifically seeking projects for these producers in the States of Montana, South Dakota, Arizona, Multi-state Area 1 (Utah, Nevada, and

Wyoming), New Mexico, Texas, Idaho, Oregon, Colorado, Louisiana, and Nebraska. The selection of these States and areas was based on those States and area experiencing severe, extreme, or exceptional drought over a significant area, as identified by the U.S. Drought Monitor of June 3, 2003. Consequently, projects directed to producers of livestock and forage and livestock producers who use rangeland with respect to drought risk mitigation in the above States and areas will be awarded bonus points in the evaluation process. Details are provided in part IV.B.5.

5. Definition of Priority Commodities

For purposes of this program, Priority Commodities are defined as:

Agricultural commodities covered by (7 U.S.C. 7333). Commodities in this group are commercial crops that are not covered by catastrophic risk protection crop insurance, are used for food or fiber (except livestock), and specifically include, but are not limited to, floricultural, ornamental nursery, Christmas trees, turf grass sod, aquaculture (including ornamental fish), and industrial crops.

Specialty crops. Commodities in this group may or may not be covered under a Federal crop insurance plan and include, but are not limited to, fruits, vegetables, tree nuts, syrups, honey, roots, herbs, and highly specialized varities of traditioinal crops.

Underserved commodities. This group includes: (a) Commodities including livestock and forage, that are covered by a Federal crop insurance plan but for which participation in an area is below the national average; and (b) commodities, including livestock, with inadequate crop insurance coverage.

A project is considered as giving priority to Priority Commodities if the majority of the educational activities of the project are directed to producers of any of the three classes of commodities listed above or any combination of the three classes.

B. Eligibility/Funding

1. Eligible Applicants

Eligible applicants include State departments of agriculture, universities, non-profit agricultural organizations, and other public or private organizations with the capacity to lead a local program of risk management education for farmers and ranchers in a specific State or area. Individuals are not eligible applicants. Applicants may apply to deliver education in more than one State or area, but a separate application must be submitted for each State or area.

Although an applicant may be eligible to compete for an award based on its status as an eligible entity, other factors may exclude an applicant from receiving Federal assistance under this program (*e.g.,* debarment and suspension; a determination of non-performance on a prior contract, cooperative agreement, grant or partnership; a determination of a violation of applicable ethical standards).

2. Non-Financial Benefits

To be eligible, applicants must also be able to demonstrate that they will receive a non-financial benefit as a result of a partnership agreement. Non-financial benefits must accrue to the applicant and must include more than the ability to provide employment income to the applicant or for the applicant's employees or the community. The applicant must demonstrate that performance under the partnership agreement will further the specific mission of the applicant (such as providing research or activities necessary for graduate or other students to complete their educational program).

3. Project Period

Each project will be funded for a period of up to one year from the project starting date for the activities described in this announcement.

4. Availability of Funds and Amounts

Up to $3,500,000 is available in fiscal year 2003 to fund up to 39 partnership agreements. A maximum of one agreement will be funded for each of 35 specific States, Puerto Rico, and three multi-state areas. It is expected that the awards will be made approximately 60 days after the application deadline. All awards will be made and agreements approved and signed no later than September 30, 2003.

Partnership or cooperative agreement funds may not be used to:

a. Plan, repair, rehabilitate, acquire, or construct a building or facility including a processing facility;

b. To purchase, rent, or install fixed equipment;

c. Repair or maintain privately owned vehicles;

d. Pay for the preparation of the partnership or cooperative agreement application;

e. Fund political activities;

f. Pay costs incurred prior to receiving a partnership or cooperative agreement;

g. Fund any activities prohibited in 7 CFR Parts 3015 and 3019, as applicable.

The approximate funding amount available for each State, Puerto Rico, and multi-state area, along with the RMA Regional Office assigned to those States or areas for purposes of providing substantial involvement, is as follows:

Billings, MT Regional Office:	
Montana	$45,000
North Dakota	50,000
South Dakota	57,000
Davis, CA Regional Officer:	
Arizona	57,000
California	356,000
Hawaii	37,000
Multi-state Area 1* (UT, NV, WY)	118,000
Jackson, MS Regional Office:	
Arkansas	83,000
Kentucky	61,000
Louisiana	47,000
Mississippi	63,000
Tennessee	49,000
Oklahoma City, OK Regional Office:	
New Mexico	55,000
Oklahoma	77,000
Texas	177,000
Raleigh, NC Regional Office:	
North Carolina	103,000
Virginia	56,000
Multi-state Area 2 (ME, NH, VT, CT, RI, MA, NY)	279,000
Multi-state Area 3 (PA, NJ, DE, MD, WV)	245,000
Spokane, WA Regional Office:	
Alaska	31,000
Idaho	67,000
Oregon	70,000
Washington	92,000
Springfield, IL Regional Office:	
Illinois	53,000
Indiana	56,000
Michigan	64,000
Ohio	68,000
St. Paul, MN Regional Office:	
Iowa	92,000
Minnesota	79,000
Wisconsin	93,000
Topeka, KS Regional Office:	
Colorado	81,000
Kansas	101,000
Missouri	69,000
Nebraska	106,000
Valdosta, GA Regional Office:	
Alabama	73,000
Florida	126,000
Georgia	89,000
Puerto Rico	30,000
South Carolina	45,000
Total	$3,500,000

* The partnership agreement for Multi-state area 1 will also be supported with substantial involvement from RMA's Billings, MT Regional Office.

The funding amount for each State and area was determined by first allocating $30,000 to each State and Puerto Rico, for a total of $1,530,000. The amount remaining from the $3,500,000 available for this program ($1,970,000) was then allocated pro rata to each State's share of cash receipts for Priority Commodities. Receipts for Priority Commodities were estimated by

subtracting major program crop receipts from total agricultural receipts for each State using 1999 data.

In the event that additional funds become available under this program or in the event that no application for a given State or area is recommended for funding by the evaluation panel, these additional funds may, at the discretion of the Manger of FCIC, be allocated pro-rata to State or area award recipients by mutual consent for use in broadening the size or scope of awarded projects or may be used to fund more than one project in a State or area.

In the event that the Manager of FCIC determines that available RMA resources cannot support the administrative and substantial involvement requirements of all agreements recommended for funding, the Manager may elect to fund fewer agreements than the available funding might otherwise allow.

C. Program Description

In conducting activities to achieve the purpose and goal of this program in a specific State or area, the award recipient will be responsible for the activities listed under paragraph 1 of this part. FCIC, working through RMA, will be substantially involved in each project through one of RMA's ten Regional Offices and will be specifically responsible for the activities listed under paragraph 2.

1. Recipient Activities

Award recipients will be required to perform the following activities:

- Finalize a risk management education delivery plan that will accomplish the purpose of this program in the designated State or area. The plan must describe the manner in which various tasks for the project will be completed, the dates by which each task will be completed, and the partners that will have responsibility for each task. Task milestones must be listed so as to ensure that progress can be measured at various stages throughout the life of the project. The plan must also provide for the substantial involvement of RMA in the project. (Note: All partnership agreements resulting from this announcement will include delivery plans prepared in a specific table format. All applicants are strongly encouraged to refer to this table format when preparing a delivery plan as part of the application narrative. Copies of the table format are available from the RMA Web site [*www.rma.usda.gov*] or upon request).
- Assemble risk management instructional materials appropriate for producers in the State or area to be used in delivering education and information. This will include: (a) Gathering existing instructional materials that meet the local needs of agricultural producers of agricultural commodities; (b) identifying gaps in existing instructional materials; and (c) developing new materials or modifying existing instructional materials to fill existing gaps.
- Develop and conduct a promotional program. This program will include activities using media, newsletters, publications, or other informational dissemination techniques that are designed to: (a) Raise awareness for risk management; (b) inform producers of the availability of risk management tools; and (c) inform producers in the State or area of the training and informational opportunities being offered.
- Deliver risk management training and informational opportunities to agricultural producers and agribusiness professionals. This will include organizing and delivering educational activities using the instructional materials identified earlier. Activities should be directed primarily to agricultural producers, but may include those agribusiness professionals that have frequent opportunities to advise farmers on risk management in the State or area.
- Document all educational activities conducted under the partnership agreement and the results of such activities, including criteria and indicators used to evaluate the success of the program. The recipient will also be required to provide information to an RMA-selected contractor to evaluate all educational activities and advise RMA as to the effectiveness of activities.

2. RMA Activities

RMA will be responsible for the following activities:

- Review and approve in advance the recipient's project delivery plan.
- Collaborate with the recipient in assembling risk management materials for producers. This will include: (a) Reviewing and approving in advance all educational materials for technical accuracy; (b) serving on curriculum development workgroups; (c) providing curriculum developers with fact sheets and other risk management publications that have been prepared by RMA; (d) advising the applicant on the materials available over the internet through the AgRisk Education Library; (e) advising the applicant on technical issues related to crop insurance instructional materials; and (f) advising the applicant on the use of the standardized design and layout formats to be used on program materials.
- Collaborate with the recipient on a promotional program for raising awareness for risk management and for informing producers of training and informational opportunities. This will include: (a) Reviewing and approving in advance all promotional plans, materials, and programs; (b) serving on workgroups that plan promotional programs; (c) advising the applicant on technical issues relating to the presentation of crop insurance products in promotional materials; and (d) participating, as appropriate, in media programs designed to raise general awareness or provide farmers with risk management education.
- Collaborate with the recipient on the delivery of education to agricultural producers and agribusiness leaders. This will include: (a) Reviewing and approving in advance all producer and agribusiness educational delivery plans; (b) advising the applicant on technical issues related to the delivery of crop insurance education and information; and (c) assisting the applicant in informing crop insurance professionals about educational plans and scheduled meetings.
- Review and approve recipient's documentation of risk management educational activities.

3. Other Activities

In addition to the specific, required activities listed above, the applicant may suggest other activities that would contribute directly to the purpose of this program. For any additional activity suggested, the applicant should identify the objective of the activity, the specific tasks required to meet the objective, specific time lines for performing the tasks, and the specific responsibilities of partners. The applicant must also identify specific ways in which RMA could have substantial involvement in the proposed educational activity.

Part II—Information for the Targeted States Program

A. General Information

1. Legislative Authority

The Targeted States program is authorized under section 524(a)(2) of the Federal Crop Insurance Act (Act).

2. Background

RMA promotes and regulates sound risk management solutions to improve the economic stability of American agriculture. On behalf of FCIC, RMA does this by offering Federal crop insurance products through a network of private-sector partners, overseeing the

creation of new risk management products, seeking enhancements in existing products, ensuring the integrity of crop insurance programs, offering outreach programs aimed at equal access and participation of underserved communities, and providing risk management education and information.

One of RMA's four strategic goals is to ensure that its customers are well informed as to the risk management solutions available. This educational goal is supported by section 524(a) of the Act. This section authorizes funding for the establishment of crop insurance educational and outreach efforts in States that have historically been underserved by Federal crop insurance program. In accordance with the Act, the Secretary of Agriculture determined that fifteen States met the criteria for ''underserved'' and they are Connecticut, Delaware, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia and Wyoming (collectively referred to as ''Targeted States'').

3. Project Goal

The goal of the Targeted States program is to ensure that farmers and ranchers in the Targeted States are sufficiently informed so as to take full advantage of existing and emerging crop insurance products.

4. Purpose

The purpose of the Targeted States program is to provide farmers and ranchers in Targeted States with education and information to be able to understand:

- The kinds of risk addressed by crop insurance;
- The features of existing and emerging crop insurance products;
- The use of crop insurance in the management of risk; and
- How the use of crop insurance can affect other risk management decisions, such as the use of marketing and financial tools.

Each cooperative agreement awarded through this program will provide the recipient with funds, guidance, and the substantial involvement of RMA to carry out a program to achieve this purpose in a Targeted State.

For some farms in Targeted States, existing crop insurance products are either not available or require enhancements to provide effective protection. The Act envisions new and enhanced insurance products that will meet the needs of these farmers and ranchers. Until these new products are available, producers would still benefit from an educational program that provides an understanding of crop insurance and the basic skills required for making a sound crop insurance decision.

RMA envisions that most of the training and informational activities under these cooperative agreements will be conducted during the November 2003 through March 2004 period, which will be the best time to reach producers with educational programs in most areas. However, activities are not restricted to this time period because certain groups of producers might benefit from a different schedule of educational activities. RMA anticipates that, through these cooperative agreements, project leaders will have sufficient time to organize and schedule events, commit funds to reserve event facilities, gather materials, raise awareness, and otherwise make the preparations needed to ensure good producer participation in all planned educational activities. Most of all, RMA anticipates that project leaders will prepare by fostering the cooperation and active support of organizations with close ties to local producers. Support from such organizations is essential in influencing local producers to participate in the type of activities envisioned in this educational program.

Projects funded through this program are envisioned to include the participation of multiple and diverse partners within the specific Targeted State. Partners should include public and private agricultural organizations in the Targeted State with a stake in ensuring that agricultural producers have increased knowledge and skill in using crop insurance. RMA specifically encourages applicants to address the needs of beginning farmers and ranchers as an important element of the project.

B. Eligibility/Funding

1. Eligible Applicants

Eligibility applicants include State departments of agriculture, universities, non-profit agricultural organizations, and other public or private organizations with the capacity to lead a local program of crop insurance education for farmers and ranchers within a Targeted State. Individuals are eligible applicants. Applicants may apply to deliver education in more than one Targeted State, but a separate application must be submitted for each State. Applications for projects directed to producers outside of the Targeted States will not be considered for funding.

Although an applicant may be eligible to compete for an award based on its status as an eligible entity, other factors may exclude an applicant from receiving Federal assistance under this program (*e.g.* debarment and suspension; a determination of non-performance on a prior contract, cooperative agreement, grant or partnership; a determination of a violation of applicable ethical standards).

2. Project Period

Each project will be funded for a period of up to one year from the project starting date for the activities described in this announcement.

3. Availability of Funds and Amounts

Approximately $4,250,000 is available in fiscal year 2003 to fund up to 15 projects, a maximum of one project for each of the Targeted States. It is expected that the awards will be made approximately 60 days after the application deadline. All awards will be made and agreements approved and signed no later than September 30, 2003. Partnership or cooperative agreement funds may not be used to:

a. Plan, repair, rehabilitate, acquire, or construct a building or facility including a processing facility;

b. To purchase, rent, or install fixed equipment;

c. Repair or maintain privately owned vehicles.

d. Pay for the preparation of the partnership or cooperative agreement application;

e. Fund political activities;

f. Pay costs incurred prior to receiving a partnership or cooperative agreement;

g. Fund any activities prohibited in 7 CFR Parts 3015 and 3019, as applicable.

The approximate funding amount available for each Targeted State's project is as follows:

Maine	$217,000
New Hampshire	171,000
Vermont	218,000
Connecticut	217,000
Rhode Island	156,000
Massachusetts	202,000
New York	565,000
New Jersey	258,000
Pennsylvania	687,000
Maryland	346,000
Delaware	249,000
West Virginia	202,000
Nevada	201,000
Utah	284,000
Wyoming	277,000
Total	4,250,000

These State funding amounts were determined by first allocating an equal amount of $150,000 to each Targeted State. The remaining funds were allocated on a pro rata basis according

to each Targeted State's share of 1999 agricultural cash receipts relative to the total for all Targeted Sales. Both allocations were totaled for each Targeted State and rounded to the nearest $1,000.

In the event that additional funds become available under this program or in the event that no application for a given Targeted State is recommended for funding by the evaluation panel, these additional funds may, at the discretion of the Manager of FCIC, be allocated pro-rata to State award recipients by agreement between RMA and the award recipient for use in broadening the size or scope of awarded projects within the Targeted State or may be used to fund more than one project in a Targeted State.

In the event that the Manager of FCIC determines that available RMA resources cannot support the administrative and substantial involvement requirements of all agreements recommended for funding, the Manager may elect to fund fewer agreements that the available funding might otherwise allow.

C. Program Description

In conducting activities to achieve the purpose and goal of this program in a Targeted State, the award recipient will be responsible for the activities listed under paragraph 1 of this part. FCIC, working through RMA, will be substantially involved in the project and will be specifically responsible for the activities listed under paragraph 2.

1. Recipient Activities

Award recipients will be required to perform the following activities:

- Finalize the crop insurance education delivery plan that will accomplish the purpose of this program in the Targeted State. The plan must describe the manner in which various tasks for the project will be completed, the dates by which each task will be completed, and the partners that will have responsibility for each task. Task milestones must be listed so as to ensure that progress can be measured at various stages throughout the life of the project. The plan must also provide for the substantial involvement of RMA in the project. (Note: All cooperative agreements resulting from this announcement will include delivery plans prepared in a specific table format. All applicants are strongly encouraged to refer to this table format when preparing a delivery plan as part of the application narrative. Copies of the table format are available from the RMA website [*www.rma.usda*] or upon request.)
- Assemble crop insurance instructional materials for producers in the Targeted State. This will include: (a) Gathering existing instructional materials that meet the local crop insurance needs of agricultural producers; (b) identifying instructional gaps in existing materials; and (c) development new materials or modifying existing materials to fill existing gaps.
- Develop and conduct a promotional program. This program will include activities using media, newsletters, publications, or other appropriate informational dissemination techniques that are designed to: (a) Raise awareness for crop insurance; (b) inform producers of the availability of crop insurance; and (c) inform producers and agribusiness leaders in the Targeted State of the educational activities being offered.
- Deliver education and information to producers and agribusienss professionals. This will include organizing and delivery educational activities using the instructional materials identified earlier. Activities should be directed primarily to agricultural producers, but may include those agribusiness professionals that have frequent opportunities to advise producers on crop insurance in the Targeted State.
- Document all educational activities conducted under the cooperative agreement and the results of such activities, including criteria and indicators used to evaluate the success of the program. The recipient will also be required to provide information to an RMA-selected contractor to evaluate all educational activities and advise RMA as to the effectiveness of activities.

2. RMA Activities

RMA will be responsible for the following activities:

- Review and approve in advance the recipient's project delivery plan.
- Collaborate with the recipient in assembling crop insurance educational materials for producers in the Targeted State. This will include: (a) Reviewing and approving in advance all educational materials for technical accuracy; (b) serving on curriculum development workgroups; (c) providing curriculum developers with fact sheets and other crop insurance publications from RMA; (d) advising the applicant on the materials available over the internet through the AgRisk Education Library; (e) advising the applicant on technical issues related to crop insurance instructional materials; and (f) advising the applicant on the use of the standardized design and layout formats to be used on program materials.
- Collaborate with the recipient on a promotional program for raising awareness on crop insurance and for informing producers of educational opportunities in the Targeted States. This will include: (a) Reviewing and approving in advance all promotional plans, materials, and programs; (b) serving on workgroups that plan promotional programs; (c) advising the applicant on technical issues relating to the presentation of crop insurance products in promotional materials; and (d) participating, as appropriate, in media programs designed to raise general awareness or provide farmers with crop insurance education.
- Collaborate with the recipient on the delivery of education to producers and agribusiness leaders. This will include: (a) Reviewing and approving in advance all educational delivery plans; (b) advising the applicant on technical issues related to crop insurance education and information; and (c) assisting the applicant in informing crop insurance professionals about program delivery plans and scheduled meetings.
- Review and approve recipient's documentation of crop insurance educational activities.

3. Other Activities

In addition to the specific, required activities listed above, the applicant may suggest other activities that would contribute directly to the purpose of this program. For any additional activity suggested, the applicant should identify the objective of the activity, the specific tasks required to meet the objective, specific time lines for performing the tasks, and specific responsibilities of the partners. The applicant must also identify specific ways in which RMA could have substantial involvement in the proposed educational activity.

Part II—Preparation of an Application

A. Program Application Materials

Program application materials for both the Commodity Partnerships and Targeted States programs under this announcement may be downloaded from the RMA Web site at: *http://www.rma.usda.gov.* Applicants may also request application materials from: Michelle Fuller, USDA–RMA–RME, 1400 Independence Ave. SW., Stop 0808, (Portals Bldg., Suite 508), Washington, DC 20250–0808, phone: (202) 720–6356, fax: (202) 690–3605, e-mail: *michelle.fuller@wdc.usda.gov* <*mailto:michelle.fuller@wdc.usda.gov*>.

B. Content of Applications

A complete and valid application package must include an electronic

copy (Microsoft Word format) of the narrative portion of the application package on diskette or compact disc and an original and two paper copies of the complete application package, which must include the following:

1. A completed and signed OMB Standard Form 424, ''Application for Federal Assistance.''

2. A completed and signed OMB Standard Form 424–A, ''Budget Information—Non-construction Programs.'' Indirect costs allowed for projects submitted under this announcement will be limited to 10 percent of the total direct cost of the partnership or cooperative agreement. If applying under the Commodity Partnerships program, Federal funding requested (the total of direct and indirect costs) must not exceed the level for the respective State or area, as specified in part I.B.4. If applying under the Targeted states program, Federal funding requested (the total of direct and indirect costs) must not exceed the level for the respective Targeted State, as specified in part II.B.3.

3. A budget and detailed narrative in support of the budget that shows all funding sources and itemized costs for each line item contained on the SF–424–A. All budget categories must be individually listed (with costs) in the same order as the budget and justified on a separate sheet of paper and placed immediately behind the SF–424–A. There must be a detailed breakdown of all costs, including indirect costs. Include budget notes on each budget line item detailing how each line item was derived. Also provide a brief narrative description of any costs that may require explanation (*i.e.,* why specific costs may be higher than market costs). Only items or services that are necessary for the successful completion of the project will be funded as permitted under the Act, the applicable Federal cost principles, and are not prohibited under any other Federal statute. Salaries of project personnel should be requested in proportion to the effort that they will devote to the project.

4. A completed and signed OMB Standard Form 424–B, ''Assurances, Non-constructive programs.''

5. [*For the Commodity Partnerships program only*]: A ''Statement of Non-financial Benefits.'' (Refer to part I.B.2, ''Non-financial Benefits'') This requirement does not apply to applications submitted under the Targeted States program.

6. A narrative title page. This single page can provide: (a) The name of the project; (b) the name of the program under which funding is being requested, either Commodity Partnerships or Targeted States; (c) the specific State or area for which the project will be directed; (d) the organization submitting the application; (e) a listing of project partners; (f) a brief project summary; and (g) information needed to contact the project's leader, including an e-mail address.

7. A written narrative (limited to ten single-sided pages) that describes the educational project in detail, including the program delivery plan. The narrative should provide reviewers with sufficient information to effectively evaluate the merits of the application under the criteria contained in part IV.B. In preparing narratives, applicants are strongly encouraged to carefully review and understand the specific features and authorities governing the specific program for which funds are being requested, as described in this announcement. The narrative should include the circumstances giving rise to the proposed activity; a clear, concise statement of the objectives; the steps necessary to implement the program to attain the objectives; an evaluation plan for the activities; and the management and work plan that describes how the activities will be managed by the applicant. The work plan should identify each objective and the key tasks to achieve the objective, the entity responsible for the task, the completion date, the task location, and RMA's role. Although the two programs have a number of similarities, there are also some important differences. The Commodity Partnership program, for instance, allows education regarding financial management, crop insurance, marketing contracts and other existing and emerging risk management tools. And it requires an emphasis on the training of producers of Priority Commodities, as described in this announcement. The Targeted States program, on the other hand, seeks to reach producers of all commodities in the fifteen Targeted States, but restricts training and informational activities to crop insurance. The narrative should reflect these differences. Also, all partnership and cooperative agreements resulting from this announcement will have delivery plans that are prepared in a specific table format. Therefore, applicants are strongly encouraged to refer to this table format when preparing a delivery plan and to use it in that portion of the application narrative that addresses the delivery plan. A sample narrative, including the table format, is available from the RMA Web site (*http://www.rma.usda.gov<http://www.rma.usda.gov>*) or upon request.

8. An appendix containing exhibits that the applicant believes will directly support the information provided in the narrative. (Optional under either of the two programs contained in this notice.)

9. A completed and signed OMB Standard From LLL, ''Disclosure of Lobbying Activities.''

10. A completed and signed AD–1047, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters (Primary Covered Transactions).''

11. A completed and signed AD–1049, ''Certification Regarding Drug-Free Workplace.''

Applicants are responsible for ensuring the application materials are received by the closing date. Incomplete application packages will not receive further consideration.

C. Submission of Applications

1. An original and two paper copies of the completed and signed application, and one electronic copy (Microsoft Word Format) of the project narrative on diskette or compact disc must be submitted in one package at the time of initial submission.

2. All applications must be submitted by the deadline. Applications that do not meet all the requirements in this announcement are considered as late applications. Late or incomplete applications will not be considered and will be returned to the applicant.

3. Applications submitted through express, overnight mail or another delivery service will be considered as meeting the announced deadline if they are received in the mailroom at the address stated above for express, overnight mail or another delivery service on or before the deadline. Applicants are cautioned that express, overnight mail or other delivery services do not always deliver as agreed. Applicants should take this into account because failure of such delivery services will not extend the deadline. The address must appear on the envelope or package containing the application with the not ''Attention: Risk Management Education Program.''

4. Mailed applications will be considered as meeting the announced deadline if they are received on or before the deadline in the mailroom at the address stated above for mailed applications. Applicants are responsible for mailing applications well in advance, to ensure that applications are received on or before the deadline time and date. Applicants using the U.S. Postal Service should allow for the extra time for delivery due to the additional security measures that mail delivered to

government offices in the Washington, DC area now requires.

5. RMA cannot accommodate transmissions of applications by facsimile or through other electronic media. Therefore, applications transmitted electronically will not be accepted regardless of the date or time of submission or the time of receipt.

6. The deadline for receipt of an application is 5 p.m. EDT on July 28, 2003. The application deadline is firm as to date and hour and applies to submission of the original application and two copies.

D. Acknowledgement of Applications

Receipt of applications will be acknowledged by e-mail, whenever possible. Therefore, applicants are encouraged to provide e-mail addresses in the application. If an e-mail address is not indicated on an application, receipt will be acknowledged by letter. There will be no notification of incomplete, unqualified or unfunded applications until the awards have been made.

When received by RMA, applications will be assigned an identification number. This number will be communicated to applicants in the acknowledgement of receipt of applications. An application's identification number should be referenced in all correspondence regarding the application. If the applicant does not receive an acknowledgement within 15 days of the submission deadline, the applicant should contact Michelle Fuller at (202) 720–6356.

Part IV—Review Process

A. General

Each application will be evaluated using a two-part process. First, each application will be screened by RMA personnel to ensure that it meets the requirements in this announcement and sorted. RMA will first sort applications by program (either Commodity Partnership or Targeted States) then by States, area, or Targeted State in which the applicant proposes to conduct the project. Applications that do not meet the requirements of this announcement or are incomplete will not receive further consideration.

Second, a review panel will consider the merits of all applications that meet the requirements in the announcement. The evaluation of each application will be conducted by a panel of not less than three independent reviewers. Reviewers will be drawn from USDA, other federal agencies, and others representing public and private organizations as needed. The narrative and any appendixes provided by each applicant will be used by the review panel to evaluate the merits of the project that is being proposed for funding.

The panel will examine and score applications for each program (Commodity Partnerships and Targeted States) and for each State or area within each program based on the ''Evaluation Criteria and Weights'' contained in this paragraph B of this part. Each State or area's applications will be evaluated and scored independently.

Applications for each State or area within each program will be evaluated and scored in each of the criteria listed below. The panel will be looking for the specific elements listed with each criterion when evaluating the applications and scoring them. For each application, panel members will assign a point value up to the maximum for each criterion. After all reviewers have evaluated and scored each of the applications, the scores for the entire panel will be averaged to determine an application's final score. After all applications have been rated and scored, a lottery will be used to resolve any instances of a tie total score for the winning application for a given State or area. If such a lottery is required for a given State or area within a program, the names of all tied applicants will be entered into a drawing. The first applicant drawn will be recommended to received a partnership or cooperative agreement for that State or area under the program. The review panel will report to the Manager of FCIC on the results of the evaluation for both the Commodity Partnerships and Targeted States program. For the Commodity Partnership program, the panel's report will include the recommended applicant to receive a partnership agreement for each State or area. For the Targeted States program, the panel's report will include the recommended applicant to receive a cooperative agreement for each Targeted State. If the final score for the highest rated application for a State, area, or Targeted State is less than 50, the panel may, at its discretion, recommend that the Manager not provide funding for that States, area, or Targeted State. The Manager of FCIC will make the final determination on those applications that will be awarded funding.

An organizations, or group of organizations in partnership, may apply for funding under other FCIC or RMA programs, in addition to the programs described in this announcement. However, if the Manager of FCIC determines that an application recommended for funding under either of the two programs of this announcement is sufficiently similar to a project that has been funded or has been recommended to be funded under another RMA or FCIC education or outreach program, then the Manager may elect to not fund that application in whole or in part.

B. Evaluation Criteria and Weights

Applications submitted under both the Commodity Partnerships and Targeted States programs will be evaluated according to the following criteria:

1. Project Management—Maximum 25 Points

The applicant must demonstrate an ability to implement sound and effective project management practices. Higher scores will be awarded to applicants that can demonstrate organizational skills, leadership, and experience in delivering services or programs that assist agricultural producer in the State or area. If the applicant has been a recipient of other Federal or other government grants, cooperative agreements, or contracts, the applicant must also detail that they have consistently complied with financial and program reporting and auditing requirements. Applicants that will employ, or have access to, personnel who have experience in directing agricultural programs or providing educations programs that benefit producers in the State or area will receive higher rankings.

2. Partnering—Maximum 25 Points

The applicant must demonstrate experience and capacity to partner with and gain the support of grower organizations, agribusiness professionals, and agricultural leaders to carry out a local program of education and information in the State or area. Applicants will receive higher scores to the extent that they can document and demonstrate: (a) That partnership commitments are in place for the express purpose of delivering the program in this announcement; (b) that a broad and diverse group of farmers and ranchers will be reached; and (c) that a substantial effort has been made to partner with organizations that can meet the needs of producers that are small, have limited resources, are minorities, or are beginning farmers and ranchers.

3. Delivery Plan—Maximum 25 Points

The applicant must demonstrate that its program delivery plan is clear and specific. For each of the applicant's responsibilities contained in the

description of the program for which funds are requested (either part I.C.1 for the Commodity Partnerships program or part II.C.1 for the Targeted States program), the applicant must demonstrate that it can identify specific tasks and provide reasonable time lines that further the purpose of this program. Applicants will obtain a higher score to the extent that the tasks of the project are specific, measurable, and reasonable, have specific time frames for completion, relate directly to the required activities and program objectives described in this announcement, and are sensitive to the needs of producers that are small, have limited resources, are minorities, or are beginning in the farming or ranching business. For guidance on a delivery plan format, applicants are encouraged to refer to a table format available from the RMA Web site (*http://www.rma.usda.gov<http://www.rma.usda.gov>*) or upon request.

4. Project Benefits—Maximum 25 Points

The applicant must demonstrate that the project benefits to farmers and ranchers in the State or area warrant the funding requested. Applicants will be scored according to the extent they can: (a) Reasonably estimate the number of producers reached through the project; (b) justify the estimates with clear specifics related to the delivery plan; (c) identify the actions producers will likely be able to take as a result of the project; and (d) identify specific measures for evaluating the success of the project. Reviewers' scoring will be based on the scope and reasonableness of the applicants' estimates of producers reached through the project, clear descriptions of specific expected project benefits for producers, and well-constructed plans for measuring the project's effectiveness.

5. Bonus (Drought Mitigation in Selected Areas)—Maximum 20 Points

[Limited to applications under the Commodity Partnership program. Bonus scoring does not apply to applications submitted under the Targeted States program.] Bonus points will be awarded for those applications under the Commodity Partnership program that address the educational needs of producers of livestock and forage and livestock producers who use rangeland with respect to drought risk mitigation. Bonus points will be awarded based on the extent that the project focuses on helping these producers understand the programs, tools, and risk management strategies for effectively managing their operations in the face of drought in the States of Montana, South Dakota, Arizona, Multi-state Area 1 (Utah, Nevada, Wyoming), New Mexico, Texas, Idaho, Oregon, Colorado, Louisiana, and Nebraska.

C. Confidentiality

The names of applicants, the names of individuals identified in the applications, the content of applications, and the panel evaluations of applications will all be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of review panel members will remain confidential throughout the entire review process and will not be released to applicants. At the end of the fiscal year, names of panel members will be made available. However, panelists will not be identified with the review of any particular application.

Part V—Additional Information

A. Requirement To Use Program Logo

Applicants awarded partnership or cooperative agreements will be required to use a program logo and design provided by RMA for all instructional and promotional materials.

B. Requirement To Provide Project Information to an RMA-Selected Contractor

Applicants awarded partnership or cooperative agreements will be required to assist RMA in evaluating the effectiveness of its education programs by providing documentation of educational activities and related information to any contractor selected by RMA for program evaluation purposes.

C. Private Crop Insurance Organizations and Potential Conflicts of Interest

Private organizations that are involved in the sale of Federal crop insurance, or that have financial ties to such organizations, are eligible to apply for funding under either of the two educational programs described in this announcement. However, such entities will not be allowed to receive funding to conduct activities that would otherwise be required under a Standard Reinsurance Agreement or any other agreement in effect between FCIC and the entity. Such entities will also not be allowed the receive funding to conduct activities that could be perceived by producers as promoting one company's services or products over another's. If applying for funding, such organizations are encouraged to be sensitive to potential conflicts of interest and to describe in their application the specific actions they will take to avoid actual and perceived conflicts of interest.

D. Access to Panel Review Information

Upon written request from the applicant, scores from the evaluation panel, not including the identify of reviewers, will be sent to the applicant after the review and awards process has been completed.

E. Notification of Cooperative or Partnership Agreement Awards

Following approval by the awarding official of RMA of the applications selected for funding, project leaders whose applications have been selected for funding will be notified. Within the limit of funds available for such a purpose, the awarding official of RMA shall enter into partnership or cooperative agreements with those applicants whose applications are judged to be most meritorious under the procedures set forth in this announcement. The agreements provide the amount of Federal funds for use in the project period, the terms and conditions of the award, and the time period for the project. The effective date of the agreement shall be on the date the agreement is executed by both parties and it shall remain in effect for up to one year. RMA will then extend to award recipients, in writing, the authority to draw down funds for the purpose of conducting the activities listed in the agreement. All funds provided to the applicant by FCIC must be expended solely for the purpose for which the funds are obligated in accordance with the approved agreement and budget, the regulations, the terms and conditions of the award, and the applicability of Federal costs principles. No commitment of Federal assistance beyond the project period is made or implied for any award resulting from this notice. Notification of denial of funding will be sent to applicants after final funding decisions have been made. Reasons for denial of funding can include incomplete proposals, scored low or were duplicative.

F. Confidential Aspects of Proposals and Awards

When an application results in a partnership or cooperative agreement, it becomes a part of the official record of RMA transactions, available to the public upon specific request. Information that the Secretary of Agriculture determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any informaion that the applicant wishes to be considered confidential, privileged, or proprietary should be clearly marked within an application, including the

basis for such designation. The original copy of a proposal that does not result in an award will be retained by RMA for a period of one year. Other copies will be destroyed. Copies of proposals not receiving awards will be released only with the express written consent of the applicant or to the extent required by law. A proposal may be withdrawn at any time prior to award.

G. Reporting Requirements

Applicants awarded partnership or cooperative agreements will be required to submit quarterly progress and financial reports (OMB Standard Form 269) throughout the project period, as well as a final program and financial report not later than 90 days after the end of the project period.

H. Audit Requirements

Applicants awarded partnership or cooperative agreements are subject to audit.

I. Prohibitions and Requirements With Regard to Lobbying

Section 1352 of Public Law 101–121, enacted on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemtions for Indian Tribes and tribal organizations. Current and prospective recipients, and any subcontractors, are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of $100,000 ($150,000 for loans) the law requires recipients and any subcontractors: (1) To certify that they have neither used nor will use any appropriated funds for payment of lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients of their subcontractors will pay with profits or other nonappropriated funds on or after December 22, 1989; and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for non-compliance. A copy of the certification and disclosure forms must be submitted with the application and are available from Michelle Fuller at the above stated address and telephone number.

J. Applicable OMB Circulars

All partnership and cooperative agreements funded as a result of this notice will be subject to the requirements contained in all applicable OMB circulars.

Signed in Washington, DC, on May 10, 2003.

Ross J. Davidson, Jr.,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 03–14955 Filed 6–12–03; 8:45 am]

BILLING CODE 3410–08–M

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Request for Applications (RFA): Risk Management Research Partnerships

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Announcement of availability of funds and request for application for risk management research partnerships.

SUMMARY: In accordance with section 522(d) of the Federal Crop Insurance Act (Act), the Federal Crop Insurance Corporation (FCIC) announces the availability of approximately $4 million for partnership agreements that will fund risk management research activities. Priority will be given to those activities addressing the need for risk management tools for producers of agricultural commodities currently covered by section 196 of the Agricultural Market Transition Act (7 U.S.C. 7333), specialty crops, livestock, rangeland and underserved commodities (For purposes of this announcement, these commodities are collectively referred to as ''Priority Commodities''). Applications requesting funding for the specific development or modification of insurance products, plans of insurance or policies are excluded from consideration under this announcement. Awards under this program will be made on a competitive basis for projects of up to three years. Recipients of awards must demonstrate non-financial benefits from a partnership agreement and must agree to substantial involvement of RMA in the project. This announcement lists the information needed to submit an application for these funds.

Closing Date: The closing date and time for receipt of an application is 5 p.m. CDT on July 28, 2003. Applications received after the deadline will not be evaluated by the technical review panel.

FOR FURTHER INFORMATION CONTACT: Applicants may download an application package from the Risk Management Agency Web site at *http://www.rma.usda.gov.* Applicants may also request an application package from: USDA, RMA/ RED, 6501 Beacon Drive, Stop 0813, Kansas City, Missouri 64133–4676, phone: (816) 926–6343, fax: (816) 926–7343, e-mail: *RMARED.Application@rma.usda.gov.*

Applicants are encouraged to submit completed and signed application packages using overnight mail or delivery service to ensure timely receipt by the USDA. The applicable address for such submissions is: RMA/RED Partnership Agreement Program, USDA, RMA/RED, 6501 Beacon Drive, Stop 0813, Kansas City, Missouri 64133–4676. Completed and signed application packages sent via the U.S. Postal Service must be sent to the same address. Applicants using the U.S. Postal Service should allow for extra security-processing time for mail delivered to government offices.

Paperwork Reduction Act

Under the provisions of the Paperwork Reduction Act of 1995, as amended (44 U.S.C. chapter 25), the collection of information requirements contained in this announcement have been approved under OMB Document Nos. 0348–0043, 0348–0044, 0348–0046, and 0348–0040.

The Catalog of Federal Domestic Assistance Number for this program is 10.450.

SUPPLEMENTARY INFORMATION: This announcement consists of six parts:

Part I—General Information
- A. Legislative Authority
- B. Background
- C. Project Objectives
- D. Purpose
- E. Definition of Priority Commodities

Part II—Eligibility/Funding
- A. Eligible Applicants
- B. Non-financial Benefits
- C. Project Period
- D. Availability of Funds

Part III—Research Program Description
- A. Recipient Activities
- B. RMA Activities
- C. Other Activities

Part IV—Preparation of an Application
- A. Research Program Application Materials
- B. Content of Applications
- C. Submission of Applications
- D. Acknowledgement of Applications

Part V—Review Process
- A. General
- B. Evaluation Criteria and Weights
- C. Confidentiality

Part VI—Additional Information
- A. Access to Panel Review Information
- B. Notification of Partnership Agreement Awards
- C. Confidential Aspects of Proposals and Awards
- D. Reporting Documents
- E. Audit Requirements
- F. Prohibitions and Requirements with Regard to Lobbying
- G. Applicable OMB Circulars

Part I—General Information

A. Legislative Authority

This program is authorized under section 522(d) of the Federal Crop Insurance Act (Act).

B. Background

RMA is committed to meeting the risk management needs and improving or developing risk management tools for the nation's farmers and ranchers. It does this by offering Federal crop insurance and other risk management products and tools through a network of private-sector entities and by overseeing the creation of new products, seeking enhancements in existing products and by expanding the use of a variety of risk management tools. Risk management tools are not limited to insurance products. Risk management tools include a variety of risk management options and strategies developed to assist producers in mitigating the risks inherent in agricultural production. Risk management tools may include: Financial management tools to mitigate price and production risks; tools to enhance measurement and prediction of risks in order to facilitate risk diversification; tools to improve production management, harvesting, record keeping or marketing. For the purposes of this announcement, risk management tools do not include insurance products, plans of insurance, policies, modifications thereof or any related material.

Section 552(b) of the Act authorizes RMA to enter into partnerships with public and private organizations for the purpose of increasing the availability of loss mitigation, financial, and other risk management tools for producers with a priority given to risk management tools for producers of Priority Commodities as defined in part I.E.

C. Project Objectives

RMA is only seeking applications that meet the following objectives:

1. To develop risk management tools to assist livestock producers in improving techniques for one or more of the following: Planning and managing the production of livestock, including disease management and control; improving techniques for breeding of livestock; managing price, revenue, or production and market risks.

2. To develop risk management tools to assist forage and rangeland producers in improving techniques for one or more of the following: Managing production, *e.g.,* optimization of grazing patterns; establishing and maintaining forage production records; drought mitigation; harvesting or marketing production.

3. To develop risk management tools to assist organic producers in improving techniques for one or more of the following: Assessing market risks, including price; marketing of production; and comparing organic and conventional production risks.

4. To clarify labor requirements and assist producers in complying with requirements to better meet the physically intense and time-compressed planting, tending, and harvesting requirements associated with the production of specialty crops and underserved agricultural commodities.

5. To develop risk management tools to assist producers in reducing the impact of multiple-year losses.

6. To develop risk management tools to further increase the economic and production stability of wild salmon fishermen.

D. Purpose

The purpose of this program is to fund partnership agreements that assist producers, minimize their production risks, and improve and/or develop risk management tools for the nation's producers. The agreements are for the development of risk management tools for use directly by agricultural producers. To aid in meeting these goals each partnership agreement awarded through this program will provide the recipient with funds, guidance, and the substantial involvement of RMA to carry out these risk management initiatives. Applications requesting funding for the development of insurance products, plans of insurance, policies, modifications thereof or related materials are excluded from consideration under this announcement.

E. Definition of Priority Commodities

For purposes of this program, Priority Commodities are defined as:

- *Agricultural commodities covered by (7 U.S.C. 7333).* Commodities in this group are commercial crops that are not covered by catastrophic risk protection crop insurance, are used for food or fiber (except livestock), and specifically include, but are not limited to, floricultural, ornamental nursery, Christmas trees, turf grass sod, aquaculture (including ornamental fish), and industrial crops.
- *Specialty crops.* Commodities in this group may or may not be covered under a Federal crop insurance plan and include, but are not limited to, fruits, vegetables, tree nuts, syrups, honey, roots, herbs, and highly specialized varieties of traditional crops.
- *Underserved commodities.* This group includes: (a) commodities, including livestock, that are covered by a Federal crop insurance plan but for which participation in an area is below the national average; and (b) commodities, including livestock, with inadequate crop insurance coverage.

Part II—Eligibility/Funding

A. Eligible Applicants

Proposals are invited from qualified public and private entities. Eligible applicants include all colleges and universities, Federal, State, and local agencies, nonprofit and for-profit private organizations or corporations, and other entities. Individuals are not eligible applicants. Although an applicant may be eligible to compete for an award based on its status as an eligible entity, other factors may exclude an applicant from receiving Federal assistance under this program (*e.g.,* debarment and suspension; a determination of non-performance on a prior contract, cooperative agreement, grant or partnership; a determination of a violation of applicable ethical standards).

B. Non-Financial Benefits

Applicants must be able to demonstrate they will receive non-financial benefits as a result of the partnership agreement. Non-financial benefits must accrue to the applicant and must include more than the ability to provide employment income to the applicant or for the applicant's employees or the community. The applicant must demonstrate that performance under the partnership agreement will further the specific mission of the applicant (such as providing research or activities necessary for graduate or other students to complete educational programs).

C. Project Period

Each project will be funded for a period of up to three years for the activities described in this announcement. Projects can also be in two parts with the first part including the research and feasibility studies and the second part including the development, implementation, delivery and maintenance of the risk management tool. If the development of the tool is determined not to be feasible, the partnership may be terminated by RMA after completion of the first part with funding reduced accordingly.

D. Availability of Funds

Approximately $4,000,000 is available in FY2003 to fund partnership agreements. There is no commitment by USDA/RMA to fund any particular project or to make a specific number of awards. Applicants awarded a

partnership agreement for an amount that is less than the amount requested will be required to modify their application to conform to the reduced amount before execution of the partnership agreement. No maximum or minimum funding levels have been established for individual projects. It is expected that the awards will begin to be made on or about September 11, 2003. All awards will be made and agreements completed no later than September 30, 2003.

Partnership agreement funds may not be used to:

1. Plan, repair, rehabilitate, acquire, or construct a building or facility including a processing facility;
2. To purchase, rent, or install fixed equipment;
3. Repair or maintain privately owned vehicles;
4. Pay for the preparation of the partnership application;
5. Fund political activities;
6. Pay costs incurred prior to receiving this partnership agreement;
7. Fund any activities prohibited in 7 CFR parts 3015 and 3019, as applicable.

Part III—Research Program Description

In conducting activities to achieve the purpose of this proposed research, the recipient will be responsible for the activities listed under paragraph A of this part. RMA will be responsible for the activities listed under paragraph B of this part.

A. Recipient Activities

The applicant will be required to perform the following activities:

1. Finalize, in cooperation with RMA, the partnership agreement.
2. Define non-financial benefits and the substantial involvement of the RMA.
3. Coordinate, manage, document and implement the timely completion of the approved research and development activities.
4. Abide by the plans and provisions contained in the partnership agreement.
5. Report on program performance in accordance with OMB Circular A–102 and A–110.
6. The recipient may be required to make a presentation to the FCIC Board of Directors.
7. Adhere to RMA guidelines for systems development and information technology development.
8. In cooperation with RMA, determine the feasibility and if necessary collaborate in the development of a plan to administer, maintain, and update the risk management tool in the future.

B. RMA Activities

1. Collaborate on the research plan;
2. Advise the recipient on the materials available over the internet and through the RMA Web site (*http://www.rma.usda.gov*) and be involved in the gathering of any additional information that may be required;
3. Work with the recipient in all phases of the research and development of the risk management tool, and the educational efforts to enable producers to utilize the risk management tool; and
4. Collaborate with the recipient in the development of all materials associated with the research and development program as it relates to publication or presentation of the results and the risk management tools to the public, any producer groups, RMA, and the FCIC Board of Directors.
5. Collaborate with the recipient in the development of a proposal to administer, maintain and update the risk management tool in the future.

C. Other Activities

In addition to the specific activities listed above, the applicant may suggest other activities that would contribute directly to the purpose of this program. For any additional activity suggested, the applicant should identify the objective of the activity, the specific tasks required to meet the objective, specific time lines for performing the tasks, and specific responsibilities of the partners. For any additional activity suggested, the applicant should identify specific ways in which RMA could or should have substantial involvement in that activity.

Part IV—Preparation of an Application

A. Research Program Application Materials

Applicant may download an application package from the Risk Management Agency Web site at: *http://www.rma.usda.gov.* Applicants may also request an application package from: David W. Fulk, USDA, RMA/RED, 6501 Beacon Drive, Stop 0813, Kansas City, Missouri 64133–4676, phone: (816) 926–6343, fax: (816) 926–7343, e-mail: *RMARED_Application@rma.usda.gov.*

B. Content of Applications

A complete and valid application package must include an original, two paper copies, and one electronic copy (Microsoft Word format preferred) of the application package on diskette or compact disc, and:

1. A completed and signed OMB Standard Form 424, ''Application for Federal Assistance''.
2. A completed and signed OMB Standard Form 424–A, ''Budget Information—Non-construction Programs''. Reviewers will need sufficient information to effectively evaluate the budget. Indirect cost for projects submitted in response to this solicitation are limited to 10 percent of the total direct cost of the agreement. A sample budget narrative, including suggestions for format and content, is available on the RMA Web site (*http://www.rma.usda.gov*) or upon request.
3. A completed and signed OMB Standard Form 424–B—''Assurances, Non-construction Programs''.
4. Any narrative submitted with the application package should be limited to 10 single-sided pages. Reviewers will need sufficient information to effectively evaluate the application under the criteria contained in part V.B. A sample narrative, including suggestions for format and content, is available on the RMA Web site (*http://www.rma.usda.gov*) or upon request.
5. An appendix containing any attachments that may support information in the narrative (Optional).
6. A statement of the non-financial benefits of any partnership agreement to the recipient. (Refer to Part II.B ''Non-financial Benefits'').
7. A completed and signed OMB Standard Form LLL, ''Disclosure of Lobbying Activities.''
8. A completed and signed AD–1047, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters (Primary Covered Transactions.'')
9. A completed and signed AD–1049, ''Certification Regarding Drug-Free Workplace.'' Applicants are responsible for ensuring the application materials are received by the closing date. Incomplete application packages will not receive further consideration.

C. Submission of Applications

1. An original and two paper copies of the completed and signed application, and one electronic copy (Microsoft Word format preferred) on diskette or compact disc must be submitted in one package at the time of initial submission.
2. All applications must be submitted and received by the deadline. Applications that do not meet all of the requirements in this announcement are considered incomplete applications. Late or incomplete applications will not be considered in this competition and will be returned to the applicant.
3. Applicants submitted through express, overnight mail or another delivery service will be considered as meeting the announced deadline if they are received in the mailroom at the address stated above for express, overnight mail or another delivery

service on or before the deadline. Applicants are cautioned that express, overnight mail or other delivery services do not always deliver as agreed. Applicants should take this into account because failure of such delivery services will not extend the deadline. The address must appear on the envelope or package containing the application with the note ''Attention: RMA/RED Partnership Application.''

Mailed applications will be considered meeting the announced deadline if they are received on or before the deadline in the mailroom at the address stated above for mailed applications. Applicants are responsible for mailing applications well in advance, to ensure that applications are received on or before the deadline time and date. Applicants using the U.S. Postal Service should allow for the extra time for delivery due to the additional security measures that mail delivered to government offices in the Washington, DC area now requires.

4. RMA cannot accommodate transmissions of applications by facsimile or through other electronic media. Therefore, applications transmitted electronically will not be accepted regardless of the date or time of submission or the time of receipt.

5. The deadline for receipt of an application is 5 p.m. Central Daylight Time on July 28, 2003. The application deadline is firm as to date and hour and applies to submission of the original application and two copies.

D. Acknowledgement of Applications

Receipt of applications will be acknowledged by e-mail, whenever possible. Therefore, each applicant is encouraged to provide an e-mail address in the application. If an e-mail address is not indicated on an application, receipt will be acknowledged by letter. There will be no notification of incomplete, unqualified or unfunded applications until the awards have been made.

When received by RMA, applications will be assigned an identification number. This number will be communicated to applicants in the acknowledgement of receipt of applications. An application identification number should be referenced in all correspondence regarding the application. If the applicant does not receive an acknowledgement within 15 days of the submission deadline, the applicant should contact David Fulk at (816) 926–6343.

Part V—Review Process

A. General

Each application will be evaluated using a two-part process. First, each application will be screened by RMA personnel to ensure that it meets the objectives stated in part I.C and part IV. Applications that do not meet the objectives stated in part I.C and all other requirements in this announcement or are incomplete will not receive further consideration.

Second, a review panel will consider the merits of all applications that are complete and meet the objectives in part I.C and all other requirements in this announcement. The evaluation of each application will be conducted by a panel of not less than three independent reviewers. The panel will be comprised of representatives from USDA, other federal agencies, and others representing public and private organizations, as needed. The narrative and any appendixes provided by each applicant will be used by the review panel to evaluate the merits of the project that is being proposed for funding. The panel will examine and score applications based on the ''Evaluation Criteria and Weights'' contained in this paragraph B of this part.

All eligible applications will be evaluated using the criteria in part V.B.1. Applications must score at least 32 points under these criteria in order to be to be evaluated further. All applications scoring the required 32 points will be evaluated further under part V.B.2 through 5. After assigning points upon those criteria, applications will be listed in initial rank order and presented, along with funding level recommendations, to the Manager of FCIC, who will make the final decision on awarding of a partnership agreement. However, if the Manager of FCIC determines that any lower rated application is sufficiently similar to a project that has been funded or has been recommended to be funded under this announcement or any other research and development program, then the Manager may elect to not fund that application in whole or in part.

B. Evaluation Criteria and Weights

1. Research Objectives—Maximum 40 points

The application must receive a minimum score of 32 points under this criterion in order to be considered for further evaluation and funding. Applications receiving less than 32 points will be eliminated and will not be evaluated under criteria 2 through 5.

The proposal clearly defines the development, management and implementation of a risk management tool designed to meet the needs of the producers outlined in the objectives in part I.C. Proposals that best meet the objectives in part 1.C and are innovative, clear, concise, useful and easy to understand will be given the highest score.

2. Indication of RMA Involvement and Non-financial Benefits—Maximum 10 points

The proposal clearly indicates areas of substantial involvement by RMA and clearly indicates benefits derived from the partnership that extends beyond the financial benefits or funding of the research proposal. Those proposals that clearly outline the involvement of RMA in all aspects of the project and demonstrate non-financial benefit will receive the highest score. Examples of non-financial benefits would be the benefits derived by an educational institution by providing research opportunities to students or benefits derived through the furtherance of an organization's mission.

3. Research Approach, Methodology, Development and Implementation—Maximum 40 points

The proposal clearly demonstrates a sound research approach and defines the methodology to be used as well as describes the development and implementation of the risk management tool. Proposals that demonstrate a clear, concise and generally accepted research methodology and innovative approach will receive the highest number of points.

4. Management—Maximum 10 points

The proposal clearly demonstrates the applicant's ability and resources to coordinate and manage all aspects of the proposed research project. The applicant whose approach is the most cost effective and optimizes the use and effective application of the funding will receive the highest score.

5. Bonus Points—Maximum 35 points

Because sections 522(d) and 523 of the Act require RMA to give priority for risk management tools for specific producers or commodities, 15 bonus points are available for proposals that meet one or more of these priorities. The priorities are for projects that cover the Priority Commodities (defined in part I.E), and wild salmon.

Due to the administrative burden of administering these partnerships, the substantial involvement required and RMA's limited resources, 20 bonus

points are available for proposals that have geographic diversity. Geographic diversity means multiple states or regions as defined by the National Agricultural Statistics Service and have the broadest number of producers impacted.

C. Confidentiality

The names of applicants, the names of individuals identified in the applications, the content of applications, and the panel evaluations of applications will all be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of review panel members will remain confidential throughout the entire review process and will not be released to applicants. At the end of the fiscal year, names of panel members will be made available. However, panelists will not be identified with the review of any particular application.

Part VI—Additional Information

A. Access to Panel Review Information

Upon written request, scores from the evaluation panel, not including the identity of reviewers, will be sent to the applicant after the review and awards process has been completed.

B. Notification of Partnership Agreement Awards and Notification of Non-Selection

Following approval of the applications selected for funding, notice of project approval and authority to draw down funds will be made to the selected applicants in writing. Within the limit of funds available for such purpose, the awarding official of RMA shall enter into partnership agreements with those applicants whose applications are judged to be most meritorious under the procedures set forth in this announcement. The partnership agreement provides the amount of Federal funds for use in the project period, the terms and conditions of the award, and the time period for the project.

The effective date of the partnership agreement shall be the date the agreement is executed by both parties. All funds provided to the applicant by FCIC must be expended solely for the purpose for which funds are obligated in accordance with the approved application and budget, the regulations, the terms and conditions of the award, and the applicability of Federal cost principles. No commitment of Federal assistance beyond the project period is made or implied, as a result of any award made pursuant to this announcement.

Notification of denial of funding will be sent to applicants after final funding decisions have been made. Reasons for denial of funding can include incomplete proposals, proposals that did not meet the objectives, scored low or were duplicative.

C. Confidential Aspects of Proposals and Awards

When an application results in a partnership agreement, it becomes a part of the official record of RMA transactions, available to the public upon specific request. Information that the Secretary of Agriculture determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to be considered confidential, privileged, or proprietary should be clearly marked within the application, including the basis for such designation. The original copy of a proposal that does not result in an award will be retained by RMA for a period of one year. Other copies will be destroyed. Such a proposal will be released only with the express written consent of the applicant or to the extent required by law. A proposal may be withdrawn at any time prior to award.

D. Reporting Document

Applicants awarded a partnership agreement will be required to submit monthly progress and financial reports (SF–269) throughout the project period, as well as a final program and financial report not later than 90 days after the end of the project period.

E. Audit Requirements

Applicants awarded the partnership agreements are subject to audit.

F. Prohibitions and Requirements With Regard to Lobbying

Section 1352 of Public Law 101–121, enacted on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian Tribes and tribal organizations. Current and prospective recipients, and any subcontractors, are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of $100,000 ($150,000 for loans) the law requires recipients and any subcontractors (1) to certify that they have neither used nor will use any appropriated funds for payments of lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients or subcontractors will pay with profit or other nonappropriated funds on or after December 22, 1989; (3) to file quarterly updates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for non-compliance. A copy of the certification and disclosure forms must be submitted with the application and are available from David Fulk at the above stated address and telephone number.

G. Applicable OMB Circulars

All partnership and cooperative agreements funded as a result of this notice will be subject to the requirements contained in all applicable OMB circulars.

Signed in Washington, DC, on May 10, 2003.

Ross J. Davidson, Jr.,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 03–14954 Filed 6–12–03; 8:45 am]

BILLING CODE 3410–08–M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—FNS–380, Worksheet for Food Stamp Program Quality Control Reviews

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on the proposed information collection of FNS–380, Worksheet for Food Stamp Program Quality Control Reviews.

DATES: Written comments must be submitted on or before August 12, 2003.

ADDRESSES: 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 has 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; (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. Comments may be sent to: Daniel Wilusz, Chief, Quality Control Branch, Program Accountability Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

All responses to this notice will be included in the request for OMB's approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection form and instruction should be directed to Daniel Wilusz, (703) 305–2460.

SUPPLEMENTARY INFORMATION:

Title: Worksheet for Food Stamp Program Quality Control Reviews.

OMB Number: 0584–0074.

Form Number: FNS–380.

Expiration Date: November 30, 2003.

Type of Request: Revision of an existing information collection.

Abstract: Form FNS–380 is a worksheet used in the Food Stamp Program to determine eligibility and benefits for households selected for review in the quality control sample of active cases. We estimate the reporting burden for this collection of information averages 8.9764 hours per each States' response. This includes the time for analyzing the household case record; planning and carrying out the field investigation; gathering, comparing, analyzing and evaluating the review data and forwarding selected cases to the Food and Nutrition Service for Federal validation. In addition to the State agency's burden, we also estimate the average burden on each household to be 0.50 hours for each of the estimated 54,703 households being interviewed. This includes a face-to-face interview with the Quality Control Reviewer to verify the identity and existence of the household and explore the household circumstances affecting the eligibility and benefit level. We estimate that the total reporting burden associated with this information collection for both State agencies and the households is 518,388 hours. The total recordkeeping burden for the State agency is 0.0236 hours per record.

We previously cleared the reporting and recordkeeping burden for this form under Office of Management and Budget (OMB) clearance number 0584–0074. OMB approved the burden through November 30, 2003. Based on the most recent table of active case sample sizes and completion rates (FY 2001), we estimate 54,703 FNS–380 worksheets and interviews will now be completed annually. This is an increase of 40 responses from the estimate made to substantiate the current collection. This estimate will also cause a corresponding increase in the reporting and recordkeeping burden. The increase in responses is a result of an augmented participation rate and is based on a statistical formula. We are requesting a three-year approval from OMB for this information collection.

Affected Public: Individuals or households; State or local governments.

Estimated Number of Respondents: 53 State agencies and 54,703 households.

Estimated Total Number of Responses Per Year: 54,703 responses.

Estimated Time per Response: 8.9764 hours per State agency and 0.50 hours per household.

Estimated Total Annual Reporting Burden: 518,388 hours.

Estimated Number of Records: 54,703.

Estimated Time per Recordkeeping: .0236 hours.

Estimated Total Annual Recordkeeping Burden: 1,291 hours.

Estimated Total Annual Reporting and Recordkeeping Burden: 519,679 hours.

Dated: June 2, 2003.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. 03–14956 Filed 6–12–03; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Red Pines EIS Project, Nez Perce National Forest, Idaho County, ID

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement to disclose the environmental impacts of implementing fuel hazard reduction and watershed improvement activities within the Red Pines project area in the Red River watershed. Individuals interested in actions of this nature are encouraged to submit comments and become involved in the planning process.

DATES: Comments concerning the scope of the analysis should be received at the address below on or before July 14, 2003.

ADDRESSES: Send written comments to Bruce Bernhardt, Forest Supervisor, Route 2, Box 475, Grangeville, ID 83530.

FOR FURTHER INFORMATION CONTACT: Kara Chadwick, Project Coordinator, and (208) 983–1950.

SUPPLEMENTARY INFORMATION: The Red Pines project area is located on the Nez Perce National Forest in northern Idaho within Idaho County. The project area lies about 34 air miles southeast of Grangeville Idaho and three air miles southeast of Elk City Idaho. The project area encompasses 31,466 acres and includes Dawson, Little Moose, Blanco and Ditch Creeks and Lower and Main Red River subwatersheds, and small portions of Trail, Soda and Moose Butte Creeks subwatersheds, which drain into Red River, which drains directly into the South Fork Clearwater River.

The actions proposed for implementation would reduce existing and potential fuel loads through the following activities:

A combination of thinning and/or salvaging and underburning on approximately 4,760 acres. This combination would result in some regeneration (clearcut) harvest. A combination of tractor and cable yarding systems would be used.

Approximately 1,645 acres of plantations, 20–50 years in age, would be thinned and underburned, favoring fire resistant species. A combination of tractor and cable yarding systems would be used.

Approximately 100 acres of 15–20 year old plantations would be precommercially thinned.

Approximately 25 miles of temporary road would be constructed to access the fuel hazard reduction areas described above. These roads would be decommissioned following activities.

Approximately 18 miles of existing roads would be reconditioned prior to use for fuel hazard reduction activities.

As part of this project, activities would be implemented to meet Forest Plan requirements for upward trend in fish habitat and water quality. The following activities would maintain or improve aquatic conditions in the subwatersheds in the project area:

Restore soil productivity on 175 to 350 acres through soil restoration techniques, such as decompaction, revegetation, and reestablishing natural drainage features.

Reduce erosion and water quality impacts at four inactive mine sites, using techniques such as reshaping of disturbed areas, soil amendments, revegetation, and possibly treatment of water draining from adits.

Reduce sediment production from existing and temporary roads planned

for use in this project. These activities would include improving the road surface, improving drainage and stabilizing eroding areas.

Decommission 40 to 45 miles of existing road that do not improve access to the area for public recreation or administrative use, using techniques ranging from abandonment to recontouring.

Reduce erosion and water quality impacts from an existing rock pit.

Replace three culverts identified as barriers to fish passage.

Replace as many culverts (85 identified) as possible to prevent them from becoming plugged with debris.

Add large woody debris to stream channels where they have been determined to be debris deficient.

Plant riparian areas with native grasses, forbs and woody species where needed to promote bank stability and/or streamside shade.

Maintain existing fish habitat improvement structures in the main stem of Red River. This would involve mostly handwork, but could include machine work.

Improve two miles of Red River and one mile of Little Moose Creek by placing large woody debris or other structures in the stream, remeandering selected channel reaches, stabilizing banks and planting riparian areas.

Improve dispersed sites in the Blanco area along Red River by defining and hardening campsites to reduce sediment runoff, providing vault-type toilets to reduce pollutants into Red River, and providing a parking area, an unloading ramp, hitching rails and a feed bunk.

Two Forest Plan amendments are necessary to implement fuel hazard reduction activities.

Past activities have caused detrimental soil disturbance in some areas proposed for fuel hazard reduction activities. The proposed amendment would state, ''Where detrimental soil conditions from past activities affect 15 percent or less of the activity area, a cumulative minimum of 85 percent of the activity area shall not be detrimentally compacted, displaced, or puddled upon completion of activities'' and ''Where detrimental soil conditions from past activities affect more than 15 percent of the activity area, the cumulative detrimental soil disturbance from project implementation and past activities shall not exceed the conditions prior to the planned activity and shall provide a net improvement in soil quality.''

A second Forest Plan amendment is necessary to implement projects in Ditch, Trail, Bridge, Baston and Soda Creeks and in Upper and Main Red River. Appendix A of the Forest Plan states that ''Management—derived sediment which could affect fish habitat will not be allowed until monitoring indicates that habitat has recovered to planned levels.'' The proposed activities, including the aquatic improvement activities, are expected to produce some sediment in the short term that could affect fish habitat, however, the activities would be designed to result in an upward trend in fish habitat conditions over time.

The following footnote would apply to Siegel, Deadwood, Redhorse, Dawson, Moose Butte, Ditch, Trail, Otterson, Bridge, Upper Baston, Soda, Shcooner and Trapper Creeks and Upper Main, Main, Lower, Lower South Fork, Upper South Fork, Middle Fork and West Fork of Red River, as listed in Appendix A of the Nez Perce Forest Plan:

''Aquatic conditions in these watersheds have been determined to fall below levels needed to meet fish/water quality objectives. General forest management activities can occur concurrently with aquatic improvements in these watersheds as long as an upward trend in habitat carrying capacity is indicated. Upward trend is indicated using multiple sources of information including stream surveys, monitoring data, predictive modeling, literature reviews and/or professional judgment. It is not specifically required that an upward trend be demonstrated through monitoring prior to initiation of general forest management activities.''

Five subwatersheds (French Gulch, Lowest Red River, and Campbell, Little Moose and Blanco Creeks) within the Red River watershed have not been rated for water quality conditions. Water quality ratings for these subwatersheds need to be completed on a site- or project-specific basis. If these subwatersheds are determined to be below objective, the footnote described above would apply.

A scoping letter outlining these actions described here is being mailed to over 200 interested individuals and organizations. In addition, the Red River District will host an informal, open house session the evening of June 17, 2003 to answer questions and solicit comments on the proposal. A field trip to the project area is being planned for August 2003. The Draft Environmental Impact Statement will be mailed to all those who responded during the scoping period.

The Interdisciplinary Team has identified five preliminary issues associated with potential effects on the proposed activities: Potential effects of the activities on lynx and lynx habitat; potential effects of the activities on the Region One listed sensitive plant known as candystick; potential effects of the activities on soil productivity; potential effects of the activities on threatened, endangered and sensitive fish, fish habitat and water quality; consistency with the anticipated Total Maximum Daily Load (TMDL) for the 303(d) listed South Fork Clearwater River; and reduction in miles of road and access to the area.

The decision to be made in response to this analysis include: (1) Are fuel hazard reduction activities needed, and if so, where, when and how would they be implemented? (2) What transportation system is necessary in the analysis area and how will it be managed? (3) Are the fish habitat and water quality improvement activities for Forest Plan upward trend requirements needed, and if so, where, when and how would they be implemented? (4) What mitigation is needed to assure forest management activities are consistent with the Nez Perce Forest Plan and environmental law? (5) Are amendments to the Nez Perce Forest Plan necessary to implement the proposed actions? (6) What implementation and effectiveness monitoring is needed?

The responsible official for this project is the Nez Perce Forest Supervisor. Comments to this notice should be sent to the address and contacts identified above and should be submitted within 30 days of publication of this notice in the **Federal Register**. A Draft Environmental Impact Statement (EIS) is expected to be available in January 2004 and a Final EIS in April 2004. Should an action alternative be selected, implementation could be initiated in fall/winter 2004.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised

until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments during this scoping and on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.).

Dated: June 3, 2003.

Bruce E. Bernhardt,

Forest Supervisor, Nez Perce National Forest.

[FR Doc. 03–14727 Filed 6–12–03; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: July 13, 2003.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION: On November 29, 2002, March 28, and April 11, 2003, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (67 FR 71133, 68 FR 15150, and 17770/17771) of proposed additions to the Procurement List.

Regulatory Flexibility Act Certification

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

(End of Certification)

Accordingly, the following products and services are added to the Procurement List:

Products

Product/NSN: Aloud Digital Audio Labeling System,
6515–00–NIB–0226.
Product/NSN: Aloud Audio Labels,
6515–00–NIB–0227.
NPA: Central Association for the Blind & Visually Impaired, Utica, New York.
Contract Activity: Veterans Affairs National Acquisition Center, Hines, Illinois.
Product/NSN: Rough and Ready,
7920–00–NIB–0409 (Medium),
7920–00–NIB–0410 (Large).
NPA: New York City Industries for the Blind, Inc., Brooklyn, New York.
Contract Activity: Office Supplies & Paper Products Acquisition Center, New York, New York.

Services

Service Type/Location: Custodial Service (SH)
Federal Building #2, Food Court
Federal Building #2, Five Star Expresso Coffee Bar
Pentagon Building, Au Bon Pain
Pentagon Building, BC Cafe
Pentagon Building, Common area restrooms
Pentagon Building, Corridor 1 Food Court
Pentagon Building, Corridor 10 Food Court
Pentagon Building, Corridor 9/10 Apex, Five Star Expresso Coffee Bar
Pentagon Building, Grease and Garbage Room
Pentagon Building, Loading dock, 1st Floor, Wedge 1
Pentagon Building, Pentagon Dining Room and Kitchen
Pentagon Building, Production Kitchen
Pentagon Building, Wedge 1 Food Court
Pentagon Building, Common area stairs and corridors, 1st Floor, 2nd Floor, 3rd Floor, Washington, DC.
NPA: The Chimes, Inc., Baltimore, Maryland.
Contract Activity: Navy Exchange Service Command (NEXCOM), Virginia Beach, Virginia.
Service Type/Location: Grounds Maintenance, USDA, Forest Service Office, Beaverhead-Deerlodge National Forest, Butte, Montana.
NPA: BSW, Inc., Butte, Montana.
Contract Activity: USDA–US Forest Service, Butte, Montana.
Service Type/Location: Installation Support Services, Fort Hood, Texas.
NPA: Training, Rehabilitation, & Development Institute, Inc., San Antonio, Texas.
Contract Activity: III Corps and Fort Hood Contracting Command, Fort Hood, Texas.
Service Type/Location: Janitorial/Custodial, Armed Forces Reserve Center, Yakima, Washington.
NPA: Yakima Specialties, Inc., Yakima, Washington.
Contract Activity: Naval Facilities Engineering Command—Everett, Everett, Washington.
Service Type/Location: Janitorial/Custodial, U.S. Geological Survey, Klamath Field Office, Klamath Falls, Oregon.
NPA: Klamath County Mental Health, Klamath Falls, Oregon.
Contract Activity: U.S. Geological Survey, Sacramento, California.
Service Type/Location: Operation of Masking/Taping Service, Tobyhanna Army Depot, Tobyhanna, Pennsylvania.
NPA: The Burnley Workshop of the Poconos, Inc., Stroudsburg, Pennsylvania.
Contract Activity: Tobyhanna Army Depot, Tobyhanna, Pennsylvania.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 03–15022 Filed 6–12–03; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List products to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete products previously furnished by such agencies.

Comments Must Be Received On or Before: July 13, 2003.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each product or service will be required to procure the products listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products proposed for addition to the Procurement List. Comments on this certification are invited.

Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

(End of Clause)

The following products are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products

Product/NSN: Candle
3″ × 3″ Pillar, Gardenia/M.R. 481
3″ × 3″ Pillar, Vanilla/M.R. 480
6″ × 3″ Pillar, Gardenia/M.R. 483
6″ × 3″ Pillar, Vanilla/M.R. 482
Jar, Lavender/M.R. 485
Jar, Vanilla/M.R. 484
NPA: South Texas Lighthouse for the Blind, Corpus Christi, Texas.
Contract Activity: Defense Commissary Agency (DeCA), Ft. Lee, Virginia.
Product/NSN: Pen, Gel Ink, Aristocrat, 7520–00–NIB–1461 (Black Ink), 7520–00–NIB–1481 (Blue Ink).
NPA: Industries of the Blind, Inc., Greensboro, North Carolina.
Contract Activity: Office Supplies & Paper Products Acquisition Center, New York, New York.
Product/NSN: Pen, Gel, Executive, 7520–00–NIB–1491.
NPA: West Texas Lighthouse for the Blind, San Angelo, Texas.
Contract Activity: Office Supplies & Paper Products Acquisition Center, New York, New York.

Deletions

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products proposed for deletion from the Procurement List. (End of Clause)

The following products are proposed for deletion from the Procurement List:

Products

Product/NSN: Cleaning Compound/7930–01–373–8846
Product/NSN: Cleaning Compound/7930–01–373–8847
Product/NSN: Cleaning Compound/7930–01–373–8850
Product/NSN: Cleaning Compound/7930–01–398–0943
Product/NSN: Cleaning Compound/7930–01–398–0946
Product/NSN: Detergent, General Purpose/7930–00–515–2477
Product/NSN: Detergent, General Purpose/7930–00–526–2919
Product/NSN: Detergent, General Purpose/7930–00–526–2920
Product/NSN: Detergent, General Purpose/7930–00–527–1207
Product/NSN: Detergent, General Purpose/7930–00–527–1237
Product/NSN: Detergent, General Purpose/7930–00–530–8067
Product/NSN: Detergent, General Purpose/7930–00–985–6945
Product/NSN: Detergent, General Purpose/7930–00–985–6946
Product/NSN: Detergent, Laundry/7930–01–045–3515
Product/NSN: Detergent, Laundry/7930–01–045–3517
NPA: Lighthouse for the Blind, St. Louis, Missouri.
Contract Activity: GSA, Southwest Supply Center, Fort Worth, Texas.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 03–15023 Filed 6–12–03; 8:45 am]

BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Central Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference call of the (Alabama, Arkansas, Louisiana and Mississippi) will convene at 1:30 p.m. and adjourn at 3 p.m. on Monday, June 30, 2003. The purpose of the conference call is to meet regarding meaningful/measurable outcomes.

This conference call is available to the public through the following call-in number: 1–800–659–8294, access code 17430346. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls not initiated using the supplied call-in number or over wireless lines and the Commission will not refund any incurred charges. Callers will incur no charge for calls using the call-in number over land-line connections. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and access code.

To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting Farella Robinson, Civil Rights Analyst of the Central Regional Office, 913–551–1400 (TDD

913–551–1414), by 4 p.m. on Friday, June 27, 2003.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated in Washington, DC, June 5, 2003.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 03–14944 Filed 6–12–03; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Southeastern Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference call of subcommittees of the Advisory Committees to the Commission from the southern region (Florida, Georgia, Kentucky, North Carolina, South Carolina and Tennessee) will convene at 2 p.m. and adjourn at 3 p.m. on Thursday, June 12, 2003. The purpose of the conference call is to discuss ways in which the Advisory Committees can achieve meaningful outcomes when considering civil rights issues in their respective states.

This conference call is available to the public through the following call-in number: 1–800–659–1145, access code 17256829. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls not initiated using the supplied call-in number or over wireless lines and the Commission will not refund any incurred charges. Callers will incur no charge for calls using the call-in number over land-line connections. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and access code.

To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting Bobby Doctor, Director of the Southern Regional Office, 404–562–7000 (TDD 400–562–7004), by 4 p.m. on Wednesday, June 11, 2003.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated in Washington, DC, June 2, 2003.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 03–14946 Filed 6–12–03; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Pennsylvania Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a press conference and briefing session of the Pennsylvania Advisory Committee will convene at 9:30 a.m. and adjourn at 3:30 p.m. (e.d.t.) on Thursday, June 26, 2003, at the City Council Chambers, City-County Building, 414 Grant Street, Pittsburgh, Pennsylvania 15219. The Advisory Committee will hold a press conference to promote the dissemination in the Pittsburgh region of its report, *Barriers Facing Minority and Women Owned Businesses in Pennsylvania,* released in Philadelphia in August 2002. The Committee will also hold a briefing session with community representatives, state and local officials, and minority- and women-owned business owners to discuss issues raised in the report that are unique to the Pittsburgh/Allegheny county area.

Persons desiring additional information, or planning a presentation to the Committee, should contact Marc Pentino of the Eastern Regional Office at 202–376–7533 (TDD 202–376–8116). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated in Washington, DC, June 5, 2003.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 03–14945 Filed 6–12–03; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 030505114–3144–02]

Best Practices for Exporters/Re-Exporters and Trade Facilitation/Freight Forwarding Companies Regarding the Transit, Transshipment, and Reexport of Dual-Use Items; Correction

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Notice of inquiry; correction.

SUMMARY: The Bureau of Industry and Security published a notice in the **Federal Register** of May 16, 2003 (63 FR 26567) requesting comments on the proposed ''Best Practices for Exporters/Reexports and Trade Facilitation/Freight Forwarding Companies Regarding the Transit, Transshipment, and Reexport of Dual-Use Items.'' That notice contained an incorrect date within which comments were to be submitted. This document corrects the date for the submission of comments.

DATES: Comments on the proposed Best Practices must be received by July 16, 2003.

ADDRESSES: Comments on the proposed Best Practices may be submitted by e-mail to *rcupitt@bis.doc.gov,* by fax at (202) 482–2387, or on paper to Rick Cupitt, Office of the Under Secretary for Industry and Security, Bureau of Industry and Security, Room H3898, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Rick Cupitt, Office of the Under Secretary for Industry and Security at *rcupitt@bis.doc.gov* or (202) 482–1459.

SUPPLEMENTARY INFORMATION: The Bureau of Industry and Security published a document in the **Federal Register** of May 16, 2003 (63 FR 26567), requesting comments on the proposed ''Best Practices for Exporters/Reexports and Trade Facilitation/Freight Forwarding Companies Regarding the Transit, Transshipment, and Reexport of Dual-Use Items.'' The notice inadvertently stated that comments were to submitted by June 16, 2003. That date was incorrect and the public is advised that the comment period will close on July 16, 2003.

Dated: June 9, 2003.

Kenneth I. Juster,

Under Secretary for Industry and Security.

[FR Doc. 03–15024 Filed 6–12–03; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-122–845; A-122–847; C-122–846; C-122–848]

Notice of Postponement of Final Antidumping Determinations and Extension of Provisional Measures and Postponement of Final Countervailing Duty Determinations: Certain Durum Wheat and Hard Red Spring Wheat from Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 13, 2003.

FOR FURTHER INFORMATION CONTACT: Julie Santoboni (AD) or Geoffrey Craig (CVD), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4194 and (202) 482–5256, respectively.

Postponement of Final Determinations and Extension of Provisional Measures

On May 1, 2003, the Department of Commerce (''the Department'') issued its affirmative preliminary determinations in the antidumping duty investigations of certain durum wheat and hard red spring wheat from Canada (*see Notice of Preliminary Determinations of Sales at Less Than Fair Value: Certain Durum Wheat and Hard Red Spring Wheat from Canada*, 68 FR 24707 (May 8, 2003)). This notice stated we would issue our final determinations in these investigations within 75 days of the date of these preliminary determinations.

On May 16, 2003, in accordance with section 735(a)(2)(A) of the Tariff Act of 1930, as amended (''the Act'') and 19 CFR 351.210(b)(2)(ii), the sole respondent in these investigations, the Canadian Wheat Board (''CWB''), requested a 37-day postponement of the final determinations in the antidumping duty investigations of durum wheat and hard red spring wheat from Canada. The CWB also requested that the Department extend provisional measures from four months for an additional 37 days, in accordance with section 733(d) of the Act and 19 CFR 351.210(e)(2). Furthermore, the CWB reserved the right to request an additional extension of the final determinations for up to the full 60 days, or 135 days after the publication date of the preliminary determinations, under section 735(a)(2) of the Act. Because the preliminary determinations for Canada were affirmative, the CWB's request serves as an adequate basis upon which the Department may extend the final determinations.

As no compelling reason exists for denying the request for postponement, we are extending these final determinations to not later than 112 days after the date of publication of the preliminary determinations (*i.e.*, not later than August 28, 2003). Suspension of liquidation will be extended accordingly.

Further, because the final determinations in the countervailing duty investigations of durum wheat and hard red spring wheat from Canada have been aligned with the final determinations in the antidumping duty investigations of durum wheat and hard red spring wheat from Canada (*see Preliminary Affirmative Countervailing Duty Determinations and Alignment of Final Countervailing Duty Determinations With Final Antidumping Duty Determinations: Certain Durum Wheat and Hard Red Spring Wheat from Canada*, 68 FR 11374 (March 10, 2003)), we are postponing the final determinations in the countervailing duty investigations until August 28, 2003, accordingly.

This notice of postponement is published pursuant to section 735(a) of the Act and 19 CFR 351.210(g).

Dated: May 29, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–14981 Filed 6–12–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570–836]

Notice of Extension of Time Limit of Final Results of New Shipper Review: Glycine from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the final results of the new shipper review of the antidumping duty order on glycine from the People's Republic of China (PRC) until no later than August 8, 2003. The period of review is March 1, 2001, through February 28, 2002. This extension is made pursuant to section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act).

EFFECTIVE DATE: June 13, 2003

FOR FURTHER INFORMATION CONTACT: Scot Fullerton or Matthew Renkey, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone: (202) 482–1386 or (202) 482–2312, respectively.

SUPPLEMENTARY INFORMATION:

Statutory Time Limits

Section 751(a)(2)(B)(iv) of the Act requires the Department to issue the final results of a new shipper review within 90 days after the date on which the preliminary results were issued. However, if the Department determines the issues are extraordinarily complicated, section 751(a)(2)(B)(iv) of the Act allows the Department to extend the deadline for the final results to up to 150 days after the date on which the preliminary results were issued.

Background

On May 1, 2002, the Department received a properly filed request for a new shipper review from Tianjin Tiancheng Pharmaceutical Co., Ltd. (TTPC) for the antidumping duty order on glycine from the PRC. On May 24, 2002, the Department published its initiation of this new shipper review for the period March 1, 2001, through February 28, 2002. *See Glycine from the People's Republic of China: Initiation of Antidumping New Shipper Review*, 67 FR 36572 (May 24, 2002). The Department completed the preliminary results of this new shipper review on March 11, 2003. *See Notice of Preliminary Results of Antidumping Duty New Shipper Review: Glycine from the People's Republic of China*, 68 FR 13669 (March 20, 2003). Without an extension, the final results of this new shipper review would be due on June 9, 2003.

Extension of Time Limits for Preliminary Results

Pursuant to section 751(a)(2)(B)(iv) of the Act, the Department may extend the deadline for completion of the final results of a new shipper review if it determines that the case is extraordinarily complicated. The Department has determined that this case is extraordinarily complicated because of the issues that must be addressed, and the final results of this new shipper review cannot be completed within the statutory time limit of 90 days.

Both respondent and petitioner submitted new factual information in their case and rebuttal briefs past established deadlines. After reviewing the briefs and deciding what constituted new factual information, the Department instructed parties to refile their case and rebuttal briefs on May 16, 2003. In addition, the Department became aware of a clerical filing error in petitioners' April 25, 2003 submission. The correction of this error on May 19, 2003, which resulted in new factual information submitted with the agreement of the Department, necessitated the opportunity for respondent to rebut this information within 10 days.

The refiling of a number of documents in this review present the Department with limited time in which to evaluate the arguments contained therein and come to a decision by the current

deadline of June 9, 2003. These arguments pertain to, among other things, the *bona fides* of TTPC's U.S. sales, and the selection from a multitude of potential sources of the appropriate surrogate values to be used for the financial ratios in calculating normal value. Therefore, in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2), the Department is extending the time limit for the completion of final results for an additional 60 days. The final results will now be due no later than August 8, 2003.

This notice is published pursuant to sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: June 6, 2003.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 03–14978 Filed 6–12–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570–878]

Notice of Amended Final Determination of Sales at Less Than Fair Value: Saccharin From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 13, 2003.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley (Suzhou Fine Chemicals Group Co., Ltd.) at (202) 482–3148, Javier Barrientos or Jessica Burdick (Shanghai Fortune Chemical Co., Ltd.) at (202) 482–2243 and (202) 482–0666, or Sally C. Gannon at (202) 482–0162; Office of AD/CVD Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230.

CORRECTION

On May 20, 2003, the Department of Commerce (the Department) published in the **Federal Register** the *Notice of Final Determination of Sales at Less Than Fair Value: Saccharin From the People's Republic of China* (68 FR 27530) (*Final Determination*). In the *Final Determination*, the Department inadvertently typed an incorrect rate for the People's Republic of China (PRC)-wide rate. The PRC-wide rate of 329.94 percent, as set forth in the *Final Determination of Saccharin from the People's Republic of China: Analysis of Adverse Facts Available Rate*, Memorandum from Javier Barrientos, through Mark Hoadley, to the File (May 12, 2003), and its attachments, is the correct PRC-wide rate, rather than the rate of 329.33 percent published in the *Final Determination*.

Thus, we are issuing this amended final in accordance with section 351.224(e) of the Department's regulations, which states that the Department will correct any ministerial error by amending the final determination. *See* 19 CFR 351.224(e). Under the regulations, a ministerial error includes mistakes in ''addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like.'' *See* 19 CFR 351.224(f). Therefore, the clerical error in the PRC-wide rate in the *Final Determination* qualifies as a ministerial error and will be corrected in accordance with section 351.224(e) of the Department's regulations.

Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Tariff Act of 1930, as amended (the Act), we are directing the U.S. Bureau of Customs and Border Protection (BCBP) to continue to suspend liquidation of all entries of saccharin from the PRC. For the PRC-wide entity, the BCBP shall require a cash deposit or the posting of a bond based on the estimated weighted-average dumping margin shown above. These suspension-of-liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission of our amended determination.

We are issuing and publishing this determination in accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the Act).

Dated: June 6, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–14980 Filed 6–12–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570–806]

Notice of Final Results of Administrative Review: Silicon Metal from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce

SUMMARY: SUMMARY: On March 10, 2003, the Department of Commerce (the Department) published the preliminary results of review of the antidumping duty order on silicon metal from the People's Republic of China (PRC) (68 FR 11369). The review covers one manufacturer, Groupstars Chemical Co., Ltd. (Shandong) (Groupstars), and its exports of the subject merchandise to the United States during the period June 1, 2001 through May 31, 2002.

We gave interested parties an opportunity to comment on the preliminary results of review. We received no comments from any of the parties.

EFFECTIVE DATE: June 13, 2003

FOR FURTHER INFORMATION CONTACT: Matthew Renkey, Office of AD/CVD Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone: (202) 482–2312.

SUPPLEMENTARY INFORMATION:

Background

The Department published in the **Federal Register** an antidumping duty order on silicon metal from the PRC on June 10, 1991. *See Antidumping Duty Order: Silicon Metal from the People's Republic of China*, 56 FR 26649 (June 10, 1991). On June 21, 2002, Groupstars, a Chinese exporter of silicon metal, submitted a timely request for the Department to conduct an administrative review for the period June 1, 2001 through May 31, 2002. On July 18, 2002, the Department initiated an administrative review covering the period June 1, 2001 through May 31, 2002. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 67 FR 48435 (July 24, 2002).

On August 21, 2002, the Department sent Groupstars the standard non-market-economy antidumping questionnaire. The deadline for responding to the questionnaire was September 27, 2002. As of October 18, 2002, the Department still had not received a response from Groupstars, or

a letter requesting an extension of the deadline. *See Memorandum to File through Maureen Flannery, Program Manager, from Matthew Renkey, Analyst: Status of Questionnaire Response: Silicon Metal from the People's Republic of China (PRC), Administrative Review 6/1/01–5/31/02*, dated October 18, 2002. On October 30, 2002, the Department received a letter from counsel for Groupstars informing us that they were withdrawing from representation of Groupstars because they were also unsuccessful in eliciting a response from the company regarding the substantive nature of this case.

On March 10, 2003, the Department published the preliminary results of review of the antidumping duty order on silicon metal from the PRC (68 FR 11369). The Department has now completed this review in accordance with Section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Antidumping Duty Order

The product covered by the order consists of silicon metal containing at least 96.00 but less than 99.99 percent of silicon by weight, and silicon metal with a higher aluminum content containing between 89 and 96 percent silicon by weight.

The merchandise is currently classifiable under item numbers 2804.69.10 and 2804.69.50 of the *Harmonized Tariff Schedule of the United States* (HTSUS) as a chemical product, but is commonly referred to as a metal. Semiconductor-grade silicon (silicon metal containing by weight not less than 99.99 percent of silicon and provided for in subheading 2804.61.00 of the HTSUS) is not subject to this order. This order is not limited to silicon metal used only as an alloy agent or in the chemical industry. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results. The Department received no comments. Accordingly, we continue to find that a margin of 139.49 percent should be assigned to Groupstars for the period June 1, 2001 through May 31, 2002. The Department will issue assessment instructions directly to the U.S. Bureau of Customs and Border Protection (BCBP).

Duty Assessment and Cash Deposit Requirement

The Department shall determine, and BCBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to BCBP within 15 days of publication of the final results of review. Furthermore, the following deposit rates will be effective with respect to all shipments of silicon metal from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this review, as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the reviewed company listed above will be the rate for that firm established in the final results of this review; (2) for companies previously found to be eligible for a separate rate and for which no review was requested, the cash deposit rate will be the rate established in the most recent review of that company; (3) for all other PRC exporters of subject merchandise, the cash deposit rate will be the PRC-wide rate of 139.49 percent; and (4) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification of Interested Parties

This notice serves as a final reminder to importers of their responsibility under section 351.402(f)(2) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: June 6, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–14979 Filed 6–12–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–815]

Certain Welded Stainless Steel Pipe From Taiwan; Notice of Amended Final Results of Antidumping Duty Administrative Review Pursuant to Final Court Decision

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final results of antidumping duty administrative review pursuant to final court decisions.

EFFECTIVE DATE: June 13, 2003.

FOR FURTHER INFORMATION CONTACT: James Doyle, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0159.

SUMMARY: The United States Court of Appeals for the Federal Circuit (''the CAFC'') and the United States Court of International Trade (''CIT'') have affirmed the Department of Commerce's (''the Department'') final remand results affecting final assessment rates for the administrative review of the antidumping duty order of certain welded stainless steel pipe (''steel pipe'') from Taiwan. The period of review (''POR'') is December 1, 1994, through November 30, 1995. As there is now a final and conclusive court decision in this case, we are amending our final results of review and we will instruct the U.S. Bureau of Customs and Border Protection (''Customs Service'') to liquidate entries subject to this review.

SUPPLEMENTARY INFORMATION:

Background

On July 14, 1997, the Department published its final results in the third administrative review of steel pipe from Taiwan. *See Final Results of Antidumping Administrative Review; Certain Welded Stainless Steel Pipe From Taiwan,* 62 FR 37543 (July 14, 1997) (''*Final Results*''). The review covered one manufacturer/exporter of the subject merchandise, Ta Chen Stainless Steel Pipe Ltd. (''Ta Chen'').

Ta Chen challenged certain aspects of the Department's *Final Results.* On October 28, 1999, the CIT remanded the *Final Results* to the Department on two issues: (1) To give a Ta Chen an opportunity to submit information on Sun Stainless, Inc.'s (''Sun'') U.S. sales; and (2) to give Ta Chen an opportunity to submit evidence on any sales to Company C that were made during the POR and on which commissions were paid to Anderson Alloys (''Anderson''). *See Ta Chen Stainless Steel Pipe, Ltd.* v. *United States. NO. 97–08–01344 1999 Ct. Int's Trade LEXIS 110* (CIT 1999). On February 25, 2000, we provided the CIT with our final results of redetermination pursuant to court remand. *See Final Results of Redetermination Pursuant to Court Remand: Ta Chen Stainless Steel Pipe, Ltd.* v. *United States, Court No. 97–08–01344* (''*Remand Results*''). In the remand redetermination the Department determined: (1) An adverse inference was appropriate for the Sun sales, and assigned the highest calculated margin calculated in the final remand results to Ta Chen's sales to Sun; and (2) not to apply our facts available methodology to the Anderson sales based on Ta Chen's statement that it paid no commissions to Anderson on Company C sales. Upon review, the CIT sustained our *Remand Results. See Ta Chen Stainless Steel Pipe, Inc.* v. *United States.* No. 97–08–01344, Slip Op. 2000–107 (CIT 2000). Ta Chen appealed the CIT's judgment with respect to the application of adverse facts available to Ta Chen's sales to Sun. On August 1, 2002, the CAFC affirmed the CIT's decision. *See Ta Chen Stainless Steel Pipe, Inc.* v. *United States,* 298 F.3d 1330 (Fed. Cir. 2002).

On January 6, 2003, Ta Chen submitted an application to the Chief Justice of the U.S. Supreme Court for an extension of time to file a petition for a *writ of certiorari.* The Chief Justice extended the time to file until the requested new deadline of January 18, 2003. Because the deadline occurred on Saturday, Ta Chen filed the petition for *writ of certiorari* January 21, 2003. On February 28, 2003, an order was given extending the response time to file comments responding to the petition until April 7, 2003. On April 7, 2003, Ta Chen filed an opposition brief. On May 29, 2003, the Supreme Court denied the petition filed by Ta Chen.

There is a final and conclusive court decision in this case. We are amending our final results of review for the period December 1, 1994 through November 30, 1995, and we will instruct the Customs Service to liquidate entries subject to this review.

The revised weighted-average percentage margin is as follows:

Manufacturer/exporter	Margin (percent)
Ta Chen	2.60

Accordingly, the Department will determine, and the Customs Service will assess, antidumping duties on all appropriate entries of subject merchandise in accordance with these amended final results. For assessment purposes, we have calculated importer-specific duty assessment rates on the ratio of the total amount of antidumping duties calculated for the examined sales to the total value of sales examined for such importer. The Department will issue appraisement instructions to the Customs Service after publication of this amended final results of review.

This notice is published in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(1)) and 19 CFR 351.211.

Dated: June 6, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–14982 Filed 6–12–03; 8:45 am]

BILLING CODE 3510–25–M

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 030529137–3137–01]

International Buyer Program Support for Domestic Trade Shows

AGENCY: International Trade Administration, Commerce.

ACTION: Notice and call for applications for the FY 2005 International Buyer Program.

SUMMARY: This notice sets forth objectives, procedures and application review criteria associated with the International Buyer Program (IBP) of the U.S. Department of Commerce (DOC), to support domestic trade shows. Selection is for the International Buyer Program for Fiscal Year 2005 (October 1, 2004 through September 30, 2005).

The IBP was established to bring international buyers together with U.S. firms by promoting leading U.S. trade shows in industries with high export potential. The IBP emphasizes cooperation between the DOC and trade show organizers to benefit U.S. firms exhibiting at selected events and provides practical, hands-on assistance such as export counseling and market analysis to U.S. companies interested in exporting. The assistance provided to show organizers includes worldwide overseas promotion of selected shows to potential international buyers, end-users, representatives and distributors. The worldwide promotion is executed through the offices of the DOC United States and Foreign Commercial Service (hereinafter referred to as the Commercial Service) in 74 countries representing America's major trading partners, and also in U.S. Embassies in countries where the Commercial Service does not maintain offices. The Department expects to select approximately 32 shows for FY2005 from among applicants to the program. Shows selected for the IBP will provide a venue for U.S. companies interested in expanding their sales into international markets.

DATES: Applications must be received by August 12, 2003. Contributions (discussed below) are for shows selected and promoted during the period between October 1, 2004, and September 30, 2005.

ADDRESSES: Export Promotion Services/ International Buyer Program, Commercial Service, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Avenue, NW., H2107, Washington, DC 20230. Telephone: (202) 482–0481 (For deadline purposes, facsimile or email applications will be accepted as interim applications, to be followed by signed original applications).

FOR FURTHER INFORMATION CONTACT: Jim Boney, Product Manager, International Buyer Program, Room 2107, Export Promotion Services, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Avenue, NW., Washington, DC 20230. Telephone: (202) 482–0146; Fax: (202) 482–0115; E-mail: *Jim.Boney@mail.doc.gov.*

SUPPLEMENTARY INFORMATION: The Commercial Service is accepting applications for the International Buyer Program (IBP) for events taking place between October 1, 2004, and September 30, 2005. A contribution of $8,000 for shows of five days or less is required. For shows more than five days in duration, or requiring more than one International Business Center, a contribution of $10,000 is required.

Under the IBP, the Commercial Service seeks to bring together international buyers with U.S. firms by selecting and promoting, in international markets, U.S. domestic trade shows covering industries with high export potential. Selection of a trade show for the IBP is valid for one event, *i.e.,* a trade show organizer

seeking selection for a recurring event must submit a new IBP application to be considered for each occurrence of the event. Even if the event occurs more than once in the 12-month period covering this announcement, the trade show organizer must submit a separate application for each event.

The Commercial Service will select approximately 32 events to support between October 1, 2004, through September 30, 2005. The Commercial Service will select those events that, in its judgment, most clearly meet the Commercial Service's statutory mandate to promote U.S. exports, especially those of small and medium size enterprises and that best meet the selection criteria articulated below.

Successful show organizer applicants will be required to enter into a Memorandum of Understanding (MoU) with the DOC. The MoU constitutes an agreement between the DOC and the show organizer specifying which responsibilities are to be undertaken by DOC as part of the IBP and, in turn, which responsibilities are to be undertaken by the show organizer. Anyone who requests information regarding applying will be sent a copy of the MoU along with the application package. The responsibilities to be undertaken by DOC will be carried out by the Commercial Service.

The Department selects trade shows to be IBP partners that it determines to be leading international trade shows appropriate for participation by U.S. exporting firms and for promotion in overseas markets by U.S. Embassies and Consulates. Selection as an IBP partner does not constitute a guarantee by the U.S. Government of the show's success. IBP partnership status is not an endorsement of the show organizer except as to its international buyer activities. Non-selection should not be viewed as a finding that the event will not be successful in the promotion of U.S. exports.

Exclusions: Trade shows that are either first-time or horizontal (non-industry specific) events will not be considered.

General Selection Criteria: The Department will select shows to be IBP partners that, in the judgment of the Department, best meet the following criteria:

(a) *Export Potential:* The trade show promotes products and services from U.S. industries that have high export potential, as determined by DOC sources, *e.g.*, Commercial Service best prospects lists and U.S. export statistics (certain industries are rated as priorities by our domestic and international commercial officers in their Country Commercial Guides).

(b) *International Interest:* The trade show meets the needs of a significant number of overseas markets and corresponds to marketing opportunities as identified by the posts in their Country Commercial Guides (*e.g.*, best prospect lists). Previous international attendance at the show may be used as an indicator.

(c) *U.S. Content of Show Exhibitors:* Trade shows with exhibitors featuring a high percentage of U.S. products or products with a high degree of U.S. content will be preferred. To be considered ''U.S.'', products and services to be exhibited must be produced or manufactured in the U.S., or if produced or manufactured outside of the U.S., the products or services must contain more than 50% U.S. content and must be marketed under the name of a U.S. firm.

(d) *Stature of the show:* The trade show is clearly recognized by the industry it covers as a leading event for the promotion of that industry's products and services, both domestically and internationally, and as a showplace for the latest technology or services in that industry or sector.

(e) *Exhibitor Interest:* There is demonstrated interest on the part of U.S. exhibitors in receiving international business visitors during the trade show. A significant number of U.S. exhibitors should be new-to-export or seeking to expand sales into additional international markets.

(f) *Overseas Marketing:* There has been a demonstrated effort to market prior shows overseas. In addition, the applicant should describe in detail the international marketing program to be conducted for the event, explaining how efforts should increase individual and group international attendance. Planned cooperation with Visit USA Committees overseas is desirable.

(g) *Logistics:* The trade show site, facilities, transportation services, and availability of accommodations are in the stature of an international-class trade show.

(h) *Cooperation:* The applicant demonstrates a willingness to cooperate with the Commercial Service to fulfill the program's goals and to adhere to target dates set out in the MoU and the event timetable, both of which are available from the program office (see **FOR FURTHER INFORMATION** section above on when, where, and how to apply). Past experience in the IBP will be taken into account in evaluating current applications to the program.

Legal Authority: The Commercial Service has the legal authority to enter into MoUs with for-profit show organizers and other groups (partners) under the provisions of the Mutual Educational and Cultural Exchange Act of 1961 ((MECEA), as amended (22 U.S.C. Section 2455(f)) MECEA allows the Commercial Service to accept contribution of funds and services from firms for the purposes of furthering its mission. The statutory program authority for the Commercial Service to conduct the International Buyer Program is 15 U.S.C. 4724.

The Office of Management and Budget (OMB) has approved the information collection requirements of the application to this program under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3512 *et seq.*) (OMB Control No. 0625–0151). Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

Don Huber,

Acting Director, Office of Trade Event Programs, U.S. and Foreign Commercial Service, International Trade Administration, Department of Commerce.

[FR Doc. 03–15027 Filed 6–12–03; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 060503C]

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan (ALWTRP)

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

ACTION: Notice of voluntary restrictions on anchored gillnet and lobster trap/pot fishing gear.

SUMMARY: The Assistant Administrator for Fisheries (AA), NOAA, requests that lobster trap/pot and anchored gillnet fishermen remove their gear on a voluntary basis from an area totaling approximately 1,265 square nautical miles (nm2) (4,339 km2), east of Cape Ann, MA for 15 days. Fishermen are also asked not to set additional gear during this period. The purpose of this action is to provide protection to an

aggregation of North Atlantic right whales (right whales).

DATES: Effective beginning at 0001 hours June 10, 2003, 2003, through 2400 hours June 25, 2003, 2003.

ADDRESSES: Copies of the proposed and final Dynamic Area Management rules, Environmental Assessment (EA), Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may also be obtained by writing Diane Borggaard, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS/Northeast Region, 978–281–9328; or Kristy Long, NMFS, Office of Protected Resources, 301–713–1401.

SUPPLEMENTARY INFORMATION:

Electronic Access

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP web site at *http://www.nero.nmfs.gov/whaletrp/*.

Background

The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act (MMPA) to reduce the incidental mortality and serious injury of three endangered species of whales (right, fin, and humpback) as well as provide conservation benefits to a fourth non-endangered species (minke) due to incidental interaction with commercial fishing activities. The ALWTRP, implemented through regulations codified at 50 CFR 229.32, relies on a combination of fishing gear modifications and time/area closures to reduce the risk of whales becoming entangled in commercial fishing gear (and potentially suffering serious injury or mortality as a result).

On January 9, 2002, NMFS published the final rule to implement the ALWTRP's Dynamic Area Management (DAM) program (67 FR 1133). The DAM program provides specific authority for NMFS to restrict temporarily on an expedited basis the use of lobster trap/pot and anchored gillnet fishing gear in areas north of 40° N. lat. to protect right whales. Under the DAM program, NMFS may: (1) require the removal of all lobster trap and anchored gillnet fishing gear for a 15–day period; (2) allow lobster trap and anchored gillnet fishing within a DAM zone with gear modifications determined by NMFS to sufficiently reduce the risk of entanglement; and/or (3) issue an alert to fishermen requesting the voluntary removal of all lobster trap and anchored gillnet gear for a 15–day period, and asking fishermen not to set any additional gear in the DAM zone during the 15–day period.

A DAM zone is triggered when NMFS receives a reliable report from a qualified individual of three or more right whales sighted within an area (75 nm^2 (139 km^2)) such that right whale density is equal to or greater than 0.04 right whales per nm2 (1.85 km2). A qualified individual is an individual ascertained by NMFS to be reasonably able, through training or experience, to identify a right whale. Such individuals include, but are not limited to, NMFS staff, U.S. Coast Guard and Navy personnel trained in whale identification, scientific research survey personnel, whale watch operators and naturalists, and mariners trained in whale species identification through disentanglement training or some other training program deemed adequate by NMFS. A reliable report would be a credible right whale sighting.

On May 30, 2003, NMFS Aerial Survey Team reported a sighting of 3 right whales in the proximity of 42° 39′ N lat. and 69° 09′ W long. This position lies east of Cape Ann, MA in an area called Cashes Ledge. Thus, NMFS has received a reliable report from a qualified individual of the requisite right whale density to trigger the DAM provisions of the ALWTRP.

Once a DAM zone is triggered, NMFS determines whether to impose restrictions on fishing and/or fishing gear in the zone. This determination is based on the following factors, including but not limited to: the location of the DAM zone with respect to other fishery closure areas, weather conditions as they relate to the safety of human life at sea, the type and amount of gear already present in the area, and a review of recent right whale entanglement and mortality data.

Because the Seasonal Area Management (SAM) East zone overlaps a portion of the DAM zone, this area is excluded from the DAM zone.

NMFS has reviewed the factors and management options noted above relative to the DAM under consideration. NMFS requests the voluntary removal of lobster trap/pot and anchored gillnet gear and asks lobster trap/pot and anchored gillnet fishermen not to set any new gear in this area during the 15–day restricted period. The DAM zone is bound by the following coordinates:

42°59′N, 69°36′W (NW Corner)
42°59′N, 68°42′W
42°30′N, 68°42′W
42°30′N, 69°24′W
42°17′N, 69°24′W
42°17′N, 69°36′W

NMFS requests voluntary action within the DAM zone because of the minimal amount of fishing gear in these waters during this time of year and, based on what we know about right whale migration, the animals will likely move into other protected areas, such as the SAM East zone. The request for removal of gear and appeal to avoid the setting of additional gear will be in effect beginning at 0001 hours June 10, 2003, through 2400 hours June 25, 2003, unless terminated sooner or extended by NMFS, through another notification in the **Federal Register**.

The request for voluntary action will be announced to state officials, fishermen, Atlantic Large Whale Take Reduction Team (ALWTRT) members, and other interested parties through e-mail, phone contact, NOAA website, and other appropriate media immediately upon filing with the **Federal Register**.

Classification

In accordance with section 118(f)(9) of the MMPA, the Assistant Administrator (AA) for Fisheries has determined that this action is necessary to implement a take reduction plan to protect North Atlantic right whales.

This action falls within the scope of alternatives and impacts analyzed in the Final EA prepared for the ALWTRP's DAM program. Further analysis under the National Environmental Policy Act (NEPA) is not required.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001, the Assistant Secretary for Intergovernmental and Legislative Affairs, DOC, provided notice of the DAM program to the appropriate elected

officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rule implementing the DAM program. A copy of the federalism Summary Impact Statement for that final rule is available upon request (**ADDRESSES**).

The rule implementing the DAM program has been determined to be not significant under Executive Order 12866.

Authority: 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3).

Dated: June 9, 2003.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National marine Fisheries Service.

[FR Doc. 03–15013 Filed 6–10–03; 3:44 pm]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Macau

June 9, 2003.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting limits.

EFFECTIVE DATE: June 16, 2003.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the Bureau of Customs and Border Protection website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 68 FR 1599, published on January 13, 2003). Also see 67 FR 68571, published on December 12, 2002.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 9, 2003.

Commissioner,
Bureau of Customs and Border Protection, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 1, 2002, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products, produced or manufactured in Macau and exported during the twelve-month period which began on January 1, 2003 and extends through December 31, 2003.

Effective on June 16, 2003, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
333/334/335	476,671 dozen of which not more than 252,153 dozen shall be in Categories 333/335.
338	618,443 dozen.
339	2,511,934 dozen.
342	168,851 dozen.
345	106,033 dozen.
347/348	1,407,689 dozen.
351	131,689 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2002.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
James C. Leonard III,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 03–14962 Filed 6–12–03; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in the Former Yugoslav Republic of Macedonia

June 10, 2003.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting limits.

EFFECTIVE DATE: June 13, 2003.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the Bureau of Customs and Border Protection website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted to reflect Macedonia's accession to the World Trade Organization (WTO). Also, limits adjusted for swing and special shift in previous **Federal Register** notices and letters to Customs are also being revised to reflect WTO accession. In addition, carryover is being applied.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 68 FR 1599, published on January 13, 2003). Also see 67 FR 63895, published on October 16, 2002; 67 FR 65956, published on October 29, 2002; 68 FR 7509, published on February 14, 2003.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 10, 2003.

Commissioner,
Bureau of Customs and Border Protection,

Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directives issued to you on October 9, 2002; October 23, 2002; and February 7, 2003 by the Chairman, Committee for the Implementation of Textile Agreements. These directives concern imports of certain wool textile products, produced or manufactured in the Former Yugoslav Republic of Macedonia and exported during the twelve-month period beginning on January 1, 2003 and extending through December 31, 2003.

Effective on June 13, 2003, you are directed to adjust the current limits for the following categories to reflect Macedonia's accession to the World Trade Organization (WTO), as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	adjusted twelve-month limit [1]
433	28,429 dozen.
434	11,417 dozen.
435	31,163 dozen.
443	181,069 numbers.
448	65,064 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2002.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 03–14965 Filed 6–12–03; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in Malaysia

June 9, 2003.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting limits.

EFFECTIVE DATE: June 13, 2003.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the Bureau of Customs and Border Protection website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted, variously, for swing, special swing, special shift, carryover, carryforward, and carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 68 FR 1599, published on January 13, 2003). Also see 67 FR 63896, published on October 16 2002.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 9, 2003.

Commissioner,

Bureau of Customs and Border Protection, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 9, 2002, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 2003 and extends through December 31, 2003.

Effective on June 13, 2003, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Fabric Group	
218–220, 225–227, 313–326, 611–O [2], 613/614/615/617, 619 and 620, as a group	193,066,083 square meters equivalent.
Other specific limits	
237	608,922 dozen.
300/301	5,682,835 kilograms.
338/339	2,146,105 dozen.
340/640	2,190,188 dozen.
341/641	2,760,483 dozen of which not more than 1,026,503 dozen shall be in Category 341.
347/348	1,074,332 dozen.
351/651	496,069 dozen.
604	1,811,407 kilograms.
638/639	973,052 dozen.
645/646	496,865 dozen.
647/648	2,726,277 dozen of which not more than 1,993,206 dozen shall be in Category 647–K [3] and not more than 1,993,206 dozen shall be in Category 648–K [4]
Group II	
201, 224, 239pt [5], 332, 352, 359pt. [6], 360–362, 369pt. [7], 400–414, 433, 434, 436, 438–O [8], 440, 443, 444, 447, 448, 459pt. [9], 469pt. [10], 603, 618, 624–629, 633, 643, 644, 652, 659pt. [11], 666pt. [12], 845, 846 and 852, as a group	35,240,443 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2002.

[2] Category 611–O: all HTS numbers except 5516.14.0005, 5516.14.0025 and 5516.14.0085.

[3] Category 647–K: only HTS numbers 6103.23.0040, 6103.23.0045, 6103.29.1020, 6103.29.1030, 6103.43.1520, 6103.43.1540, 6103.43.1550, 6103.43.1570, 6103.49.1020, 6103.49.1060, 6103.49.8014, 6112.12.0050, 6112.19.1050, 6112.20,.1060 and 6113.00.9044.

[4] Category 648–K: only HTS numbers 6104.23.0032, 6104.23.0034, 6104.29.1030, 6104.29.1040, 6104.29.2038, 6104.63.2006, 6104.63.2011, 6104.63.2026, 6104.63.2028, 6104.63.2030, 6104.63.2060, 6104.69.2030, 6104.69.2060, 6104.69.8026, 6112.12.0060, 6112.19.1060, 6112.20.1070, 6113.00.9052 and 6117.90.9070.

[5] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[6] Category 359pt.: all HTS numbers except 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545.

[7] Category 369pt.: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.0505, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302,51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.1020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9882, 6406.10.7700, 9404.90.1000, 9404.90.8040 and 9404.90.9505.

[8] Category 438–O: only HTS numbers 6103.21.0050, 6103.23.0025, 6105.20.1000, 6105.90.1000, 6105.90.8020, 6109.90.1520, 6110.11.0070, 6110.12.2070, 6110.19.0070, 6110.30.1550, 6110.90.9072, 6114.10.0020 and 6117.90.9025.

[9] Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505, 6406.99.1560.

[10] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

[11] Category 659pt.: all HTS numbers except 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000. 6406.99.1510 and 6406.99.1540.

[12] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9884, 9404.90.8522 and 9404.90.9522.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 03–14963 Filed 6–12–03; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Denial of Commercial Availability Request under the United States - African Growth and Opportunity Act (AGOA)

June 10, 2003.

AGENCY: The Committee for the Implementation of Textile Agreements (CITA).

ACTION: Denial of the request alleging that certain cotton velvet fabrics, for use in apparel articles, cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA.

SUMMARY: On April 8, 2003 the Chairman of CITA received a petition from Crystal Apparel Limited. of Hong Kong and Sinotex Mauritius Limited in Mauritius alleging that certain light- and medium-weight dyed cotton warp pile velvet fabrics (see Annex I for product specifications) classified in subheading 5801.25.00 of the Harmonized Tariff Schedule of the United States (HTSUS), for use in apparel articles including men's and boys' jackets and pants, women's and girls' jackets, dresses, skirts, shorts, and pants, cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting that apparel of such fabrics be eligible for preferential treatment under the AGOA. Based on currently available information, CITA has determined that these subject fabrics can be supplied by the domestic industry in commercial quantities in a timely manner and therefore denies the request.

FOR FURTHER INFORMATION CONTACT: Anna Flaaten, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 112 (b)(5)(B) of the AGOA, Section 1 of the Executive Order No. 13191 of January 17, 2001.

BACKGROUND:

The AGOA provides for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns and fabrics formed in the United States or a beneficiary country. The AGOA also provides for quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more AGOA beneficiary countries from fabric or yarn that is not formed in the United States or a beneficiary country, if it has been determined that such fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner. Pursuant to Executive Order No. 13191, the President's authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA is exercised by CITA.

On April 8, the Chairman of CITA received a petition from Crystal Apparel Limited. of Hong Kong and Sinotex Mauritius Limited. in Mauritius alleging that certain light- and medium-weight dyed cotton warp pile velvet fabrics (see Annex I for product specifications), classified in subheading 5801.25.00 of the Harmonized Tariff Schedule of the United States (HTSUS), for use in apparel articles including men's and boys' jackets and pants, women's and girls' jackets, dresses, skirts, shorts, and pants, cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requested quota- and duty-free treatment under the AGOA for apparel articles that are both cut and sewn in one or more AGOA beneficiary countries from such fabrics.

On April 14, 2003, CITA solicited public comments regarding this request, particularly with respect to whether these fabrics can be supplied by the domestic industry in commercial quantities in a timely manner. On April 30, 2003, CITA and the Office of the U.S. Trade Representative offered to hold consultations with the relevant Congressional committees. We also requested the advice of the U.S. International Trade Commission and the relevant Industry Sector Advisory Committees.

CITA has determined that certain light- and medium-weight dyed cotton warp pile velvet fabrics, classified in subheading 5801.25.00 of the Harmonized Tariff Schedule of the United States (HTSUS), for use in apparel articles including men's and boys' jackets and pants, women's and girls' jackets, dresses, skirts, shorts, and pants, can be supplied by the domestic industry in commercial quantities in a timely manner. Crystal Apparel Limited and Sinotex Mauritius Limited's request is denied.

Annex 1

Product Specifications:

1. Name: light-weight dyed warp pile velvet
   HTS subheading: 5801.25.00
   Fiber Composition: 100 percent combed cotton
   Yarn: 230 g/m2 to 260 g/m2
   Construction:
   Woven Fabric - 96 x 98
   Warp - 42/2 ply + 42/2 ply
   Weft - 32 single yarn

   Woven Fabric - 96 x 102
   Warp - 42/2 ply + 60/2 ply
   Weft - 32 single yarn

2. Name: medium-weight dyed warp pile velvet
   HTS subheading: 5801.25.00
   Fiber Composition: 97 to 98 percent cotton, up to 3 percent spandex yarn
   Yarn: 280 g/m2 to 330 g/m2
   Construction:
   Woven Fabric - 110 x 84
   Warp - 42/2 ply + 50/2 ply
   Weft - 30 single yarn + 40 denier spandex

   Woven Fabric - 126 x 84
   Warp - 42/2 ply + 50/2 ply
   Weft - 30 single yarn + 40 denier spandex

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 03–14964 Filed 6–12–03; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Collection; Comment Request

AGENCY: Headquarters Air Force Personnel Center.

ACTION: Notice.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the United States Air Force Personnel Center, Personnel Procurement and Development Divisions, announces the proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Considerations will be given to all comments received by August 12, 2003.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to United States Air Force Personnel Center, Line Officer Programs Section, 550C Street West, Ste 10, Randolph AFB TX 78150.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposed and associated collection instruments, please write to the above address, or call United States Air Force Personnel Center, Line Officer Programs Section, (210) 665–2102.

Title, Associated Form, and OMB Number: Application & Evaluation For Training Leading To A Commission In The United States Air Force, Air Force Form 56, OMB Number 0701–0001.

Needs and Uses: The information collection requirement is necessary to obtain data on candidate's background and aptitude in determining eligibility and selection to the Air Force Academy.

Affected Public: Individuals or households.

Annual Burden Hours: 21,000.

Number of Respondents: 7,000.

Responses Per Respondent: 1.

Average Burden Per Response: 180 minutes.

Frequency: On Occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Information contained on Air Force Form 56 supports the Air Force's selection for officer training programs for civilian and military applicants. Each student's background and aptitude is reviewed to determine eligibility. If the information on this form is not collected the individual cannot be considered for admittance to a commissioning program. Data from this form is used to select fully qualified persons for the training leading to commissioning. Data supports the Air Force in verifying the eligibility of applicants and in the selection of those best qualified for dedication of funding and training resources. Eligibility requirements are outlined in Air Force Instruction 36–2013.

Pamela Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 03–14905 Filed 6–12–03; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Army

Availability of a Novel Propellant Technology for Exclusive, Partially Exclusive or Non-Exclusive Licenses

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive or non-exclusive licenses relative to novel propellant formulation as described in U.S. Patent application ''Amine Azide Propellant'' (U.S. Patent Application No. 10/389885). Any license shall comply with 35 U.S.C. 209 and 37 CFR 404.

FOR FURTHER INFORMATION CONTACT: Michael D. Rausa, U.S. Army Research Laboratory, Office of Research and Technology Applications, ATTN: AMSRL–DP–T/Bldg. 459, Aberdeen Proving Ground, MD 21005–5425, telephone: (410) 278–5028.

SUPPLEMENTARY INFORMATION: None.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 03–15017 Filed 6–12–03; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of a Novel Composite Debonding Technology for Exclusive, Partially Exclusive or Non-Exclusive Licenses

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive or non-exclusive licenses relative to novel composite debonding technology as described in U.S. Patent application ''Article and Method for Controlled Debonding of Elements Using Shape Memory Alloy Actuators'' (U.S. Patent Application No. 10/376629). Any license shall comply with 35 U.S.C. 209 and 37 CFR part 404.

FOR FURTHER INFORMATION CONTACT: Michael D. Rausa, U.S. Army Research Laboratory, Office of Research and Technology Applications, ATTN: AMSRL–DP–T/Bldg., 459, Aberdeen Proving Ground, MD 21005–5425, telephone: (410) 278–5028.

SUPPLEMENTARY INFORMATION: None.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 03–15015 Filed 6–12–03; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning East Access Dental Field Operating and Treatment System Having Over-the-Patient Delivery

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of U.S. Patent Application No. 09/828,601 entitled ''Easy Access Dental Field Operating and Treatment System Having Over-the-Patient Delivery,'' filed April 6, 2001. Foreign rights are also available (PCT/US02/02283). The United States Government, as

represented by the Secretary of the Army, has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Derrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwin, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: Dental treatment systems are systems which facilitate the delivery of dental services to patients. The application relates, in general, to portable dental treatment systems.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 03–15019 Filed 6–12–03; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive License or Partially Exclusive Licensing of U.S. Patent Enzymatic Polymerization of Anilines or Phenols Around a Template

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR Part 404.6, announcement is made of the availability for licensing of U.S. Patent No. US 6,569,651B1 entitled ''Enzymatic Polymerization of Anilines or Phenols around a Template'' issued May 27, 2003. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Rosenkrans at U.S. Army Soldier and Biological Chemical Command, Kansas Street, Natick, MA 01760, Phone: (508) 233–4928 or E-mail: *Robert.Rosenkrans@natick.army.mil.*

SUPPLEMENTARY INFORMATION: Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR part 404.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 03–15014 Filed 6–12–03; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Microfluidized *Leishmania* Lysate and Methods of Making and Using Thereof

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of U.S. Patent Application No. 09/975,020 entitled ''Microfluidized *Leishmania* Lysate and Methods of Making and Using Thereof,'' filed October 12, 2001. Foreign rights are also available (PCT/US01/31894). The United States Government, as represented by the Secretary of the Army, has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: This invention relates generally to microfluidized *Leishmania* lysate preparations. In particular, the present invention relates to microfluidized *Leishmania* lysate preparations for assays and immunogenic compositions.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 03–15020 Filed 6–12–03; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of a Novel Shaped Charge Technology for Exclusive, Partially Exclusive or Non-Exclusive Licenses

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive or non-exclusive licenses relative to novel shaped charge technology as described in U.S. Patent application ''Shaped Charge Explosive Device and Method of Making Same'' (U.S. Patent Application No. 10/421899). Any license shall comply with 35 U.S.C. 209 and 37 CFR part 404.

FOR FURTHER INFORMATION CONTACT: Michael D. Rausa, U.S. Army Research Laboratory, Office of Research and Technology Applications, ATTN: AMSRL–DP–T/Bldg., 459, Aberdeen Proving Ground, MD 21005–5425, telephone: (410) 278–5028.

SUPPLEMENTARY INFORMATION: None.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 03–15016 Filed 6–12–03; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of a Novel Steganography Technology for Exclusive, Partially Exclusive, or Non-Exclusive Licenses

AGENCY: Department of the Army, DOD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive, or non-exclusive licenses relative to a novel stenography technology as described in U.S. Patent ''Spread Spectrum Image Steganography'' (U.S. Patent No. 6,557,103), April 29, 2003; Marvel, *et al.* Any license shall comply with 35 U.S.C. 209 and 37 CFR 404.

FOR FURTHER INFORMATION CONTACT: Michael D. Rausa U.S. Army Research Laboratory, Office of Research and Technology Applications, ATTN: AMSRL–DP–T/Bldg., 459, Aberdeen Proving Ground, MD 21005–5425, telephone: (410) 278–5028.

SUPPLEMENTARY INFORMATION: None.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 03–15018 Filed 6–12–03; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the Woodbridge River Basin, Middlesex County, NJ, Flood Control and Aquatic Ecosystem Restoration Study

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: In accordance with the President's Council of Environmental Quality (CEQ) Rules and Regulations, as defined and amended in 40 Code of Federal Regulations (CFR), Parts 1500–1508, the U.S. Army Corps of Engineers (USACE), New York District (District), is preparing a Draft Environmental Impact Statement (DEIS) to determine the feasibility of implementing flood damage protection and aquatic ecosystem restoration measures along the Woodbridge River Basin in Middlesex, NJ. The Woodbridge River Basin (Basin) is approximately 5 miles in length with a drainage area of approximately 10 miles. Tidal surges and inadequate channel capacities to contain increased stormwater runoff account for flooding problems within the Basin. The Basin has experienced numerous flood events that have incurred damages to homes, businesses and pubic infrastructure; the latest occurring in October of 1996 during which the Township of Woodbridge sustained damages in excess of $1 million. Direct impacts to the Basin's aquatic ecosystem as a result of urbanization include the loss of wetland acreage, floodplain encroachment, stream bank erosion, increased sedimentation and nutrient and pollutant loading. The District will develop and evaluate various structural and non-structural flood damage reduction measures and will investigate opportunities to restore aquatic ecosystem structure and functions.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Rightler, Project Biologist, Planning Division, U.S. Army Corps of Engineers, New York District, NY 10278–0090, (212) 264–9846 or *kimberly.a.rightler@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

1. This study is authorized by U.S. House of Representatives Resolution Docket 2552 dated May 1998.

2. *Scoping:* Public scoping meeting(s) are anticipated to occur in September 2003. Results from the public scoping meeting(s) with the District and Federal, state, and local agencies will be addressed in the DEIS. A separate notice, in local area newspapers, indicating the location, date and time of the scoping meeting(s) will be released at a later date and a scoping document will be prepared and made available prior to the scoping meeting(s). Parties interested in receiving notices of public scoping meeting(s) or copies of the scoping document should contact Ms. Rightler at the above address.

3. *Date of DEIS Release:* The DEIS is scheduled to be available April 2005.

Frank Santomauro,

Chief, Planning Division.

[FR Doc. 03–15021 Filed 6–12–03; 8:45 am]

BILLING CODE 3710–06–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are available for licensing by the Department of the Navy. U.S. Patent No. 5,976,284: Patterned Conducting Polymer Surfaces and Process for Preparing the Same and Devices Containing the Same, Navy Case No. 78,825.//U.S. Patent No. 5,828,432: Conducting Substrate, Liquid Crystal Device Made Therefrom and Liquid Crystalline Composition in Contact Therewith, Navy Case No. 77,014.// Navy Case No. 84,102: Highly Conducting Transparent Thin Polymers Films Formed from Double and Multiple Layers of Poly(3,4 Ethylene Dioxythiophene) and its Perivatives.// Navy Case No. 84,103: Highly Conducting and Transparent Thin Films Formed from New Fluorinated Perivatives of 3,4 Ethylene Dioxythiophene.

ADDRESSES: Requests for copies of the inventions cited should be directed to the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: Catherine M. Cotell,Ph.D., Head, Technology Transfer Office, NRL Code 1004,4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone (202) 767–7230. Due to temporary U.S. Postal Service delays, please fax (202) 404–7920, E-Mail: *cotell@nrl.navy.mil* or use courier delivery to expedite response.

(Authority: 35 U.S.C. 207, 37 CFR Part 404).

Dated: June 9, 2003.

E.F. McDonnell,

Major, U.S. Marine Corps, Federal Register Liaison Officer.

[FR Doc. 03–14924 Filed 6–12–03; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Star Cyroelectronics

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Star Cyroelectronics, a revocable, nonassignable, exclusive license in the United States to practice the Government-owned invention described in U.S. Patent No. 6,051,846 entitled ''Monolithic Integrated High-Tc Superconductor-Semiconductor Structure'' and U.S. Patent No. 6,165,801 entitled ''Method for Making a Monolithic Integrated High-Tc Superconductor-Semiconductor Structure''.

DATES: Anyone wishing to object to the granting of this license has (15) days from the date of this notice to file written objections along with supporting evidence, if any.

ADDRESSES: Written objections are to be filed with the Office of Patent Counsel, Space and Naval Warfare Systems Center, Code 20012, 53510 Silvergate Ave., Room 103, San Diego, CA 92152–5765.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Ward, Space and Naval Warfare Systems Center, Code 20012, 53510 Silvergate Ave, Room 103, San Diego, CA 92152–5765, telephone (619) 553–3823.

(Authority: 35 U.S.C. 207, 37 CFR part 404.7(a)).

Dated: June 4, 2003.

E.F. McDonnell,

Major, U.S. Marine Corps, Federal Register Liaison Officer.

[FR Doc. 03–14906 Filed 6–12–03; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Office of Postsecondary Education; Strengthening Institutions (SIP), American Indian Tribally Controlled Colleges and Universities (TCCU), and Alaska Native and Native Hawaiian-Serving Institutions (ANNH) Programs; Developing Hispanic-Serving Institutions (HSIs) Program

AGENCY: Department of Education.

ACTION: Notice reopening application deadline dates for certain applicants.

SUMMARY: The Secretary reopens the deadline dates for certain applications

for the Strengthening Institutions Program, American Indian Tribally Controlled Colleges and Universities Program, and Alaska Native and Native Hawaiian-Serving Institutions Programs announced in the **Federal Register** on January 31, 2003 (68 FR 5006), and for the Developing Hispanic-Serving Institutions Program announced in the **Federal Register** on January 29, 2003 (68 FR 4454). We are reopening the competitions for certain applicants due to conflicting information given at a Department-sponsored technical assistance workshop. At the workshop, potential applicants were given information about which parts of the application would not be included in the page limitation that conflicted with the information in the **Federal Register** notices. As a result of this confusion, we are allowing those applicants who submitted timely applications that exceeded the published page limit requirements to resubmit their applications by the deadline date below. The resubmitted applications must meet the page limit requirements published in the original closing date notices for the respective programs. Applicants whose original applications exceeded the page limit requirements who do not resubmit a new application that complies with the page limit requirements by the deadline below will not be considered for funding.

Deadline for Transmittal of Applications: Applications must be postmarked no later than June 23, 2003.

Transmittal of Applications: Resubmitted applications should be sent by hardcopy to the individuals and addresses noted below: Darlene Collins (Title III, Part A Programs), U.S. Department of Education, 1990 K Street, NW., 6th Floor, Washington, DC 20006–8513. Or, Louis Venuto (Title V Program), U.S. Department of Education, 1990 K Street, NW., 6th floor, Washington, DC 20006–8513.

FOR FURTHER INFORMATION CONTACT: For title III, part A programs: Darlene B. Collins, U.S. Department of Education, 1990 K Street, NW., 6th Floor, Washington, DC 20006–8513. Telephone: (202) 502–7576 or Thomas Keyes, U.S. Department of Education, 1990 K Street, NW., 6th Floor, Washington, DC 20006–8513. Telephone: (202) 502–7577 or via Internet: *darlene.collins@ed.gov, thomas.keyes@ed.gov.*

For title V program: Louis Venuto, U.S. Department of Education, 1990 K Street, NW., 6th floor, Washington, DC 20006–8513. Telephone: (202) 502–7763 or via Internet: *louis.venuto@ed.gov.*

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Dated: June 9, 2003.

Sally L. Stroup,

Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 03–14951 Filed 6–12–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC03–69–001, et al.]

FPL Energy Seabrook, LLC, et al.; Electric Rate and Corporate Filings

June 5, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. FPL Energy Seabrook, LLC and FPL Energy New England Transmission, LLC

[Docket No. EC03–69–001]

Take notice that on May 30, 2003, FPL Energy Seabrook, LLC and FPL Energy New England Transmission, LLC submitted a notice of withdrawal of their joint application for authorization to transfer jurisdictional facilities filed on March 21, 2003, and their joint answer to protests and comments filed on April 28, 2003.

Comment Date: June 20, 2003.

2. U.S. Department of Energy, Bonneville Power Administration

[Docket No. EF03–2021–000]

Take notice that on June 3, 2004, the Bonneville Power Administration (Bonneville) submitted for filing Bonneville's proposed 2004 Transmission and Ancillary Services Rates. Bonneville requests that the Commission confirm and approve the rates pursuant to Sections 7(a)(2) and 7(I)(6) of the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. §§ 839(a)(2) and 839e(I)(6), and Subpart B of part 300 of the Commission's regulations, 18 CFR part 300. Bonneville requests that the Commission grant interim approval of the proposed rates by September 30, 2003, followed by final approval, with the rates to be effective October 1, 2003 through September 30, 2005.

Comment Date: June 24, 2003.

3. New York Independent System Operator, Inc.

[Docket No. ER01–3001–006]

Take notice that on June 2, 2003, the New York Independent System Operator, Inc. (NYISO) submitted a report on the status of its demand side management programs and the status of the addition of new generation resources in New York State in compliance with the Commission's previous orders in the above-captioned proceeding.

The NYISO states it has served a copy of this filing upon all parties that have executed service agreements under the NYISO's Open Access Transmission Tariff and Market Administration and Control Area Services Tariff.

Comment Date: June 23, 2003.

4. Michigan Electric Transmission Company, LLC

[Docket No. ER03–688–001]

Take notice that on June 3, 2003, Michigan Electric Transmission Company, LLC submitted revisions to its proposed amendment to the ''Project I Transmission Ownership and Operating Agreement Between Consumers Power Company and Michigan South Central Power Agency,'' to comply with the Federal Energy Regulatory Commission's May 19, 2003 Order in Docket No. ER03–688–000.

Comment Date: June 24, 2003.

5. Northeast Utilities Service Company

[Docket No. ER03–907–000]

Take notice that on May 30, 2003, Northeast Utilities Service Company (NUSCO), on behalf of its operating

company affiliates, The Connecticut Light and Power Company, Wester Massachusetts Electric Company, Holyoke Power and Electric Company and Holyoke Water Power Company (the NU Companies) tenders for filing a Second Amendment (Second Amendment) to the Settlement Agreement approved by the Commission in 88 FERC • 61,006 (the Settlement) to extend the rates, terms and conditions of the Settlement for an additional period of sixty days to allow additional time to complete negotiations of amendments to underlying transmission service agreements.

NUSCO states that a copy of the filing has been mailed to the service list. NUSCO requests an effective date of May 30, 2003 and requests any waiver of the Commission 's regulations that may be necessary to permit such an effective date.

Comment Date: June 20, 2003.

6. Fulcrum Power Marketing LLC

[Docket No. ER03–908–000]

Take notice that on June 2, 2003, Fulcrum Power Marketing LLC petitioned the Commission for acceptance of its Rate Schedule FERC No. 1, the granting of certain blanket approvals, including the authority to sell electricity at market-based rates, and the waiver of certain of the Commission's Regulations.

Comment Date: June 23, 2003.

7. New Energy Partners, L.L.C.

[Docket No. ER03–909–000]

Take notice that on June 2, 2003, New Energy Partners, L.L.C. tendered for filing a Notice of Cancellation pursuant to 18 CFR 35.15 to reflect the cancellation of its Market Rate Tariff, designated as Rate Schedule FERC No. 1, and code of conduct, designated as Supplement No. 1 to Rate Schedule No. 1, both originally accepted for filing in Docket No. ER99–1812–000.

Comment Date: June 23, 2003.

8. New England Power Pool

[Docket No. ER03–910–000]

Take notice that on June 2, 2003, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance changes to NEPOOL Market Rule 1 and its Appendices. The Participants Committee requests an August 1, 2003 effective date for the filed changes.

The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment Date: June 23, 2003.

9. Deseret Generation & Transmission Co-operative, Inc.

[Docket No. ER03–911–000]

Take notice that on June 3, 2003, Deseret Generation & Transmission Co-operative, Inc. submitted a filing detailing a Supplemental 2002 Rebate to each of its six member cooperatives under Service Agreement Nos. 1 through 6 of FERC Electric Tariff, Original Volume No. 1.

Comment Date: June 24, 2003.

10. Perryville Energy Partners, L.L.C.

[Docket No. ER03–912–000]

Take notice that on June 3, 2003, Perryville Energy Partners, L.L.C. (Perryville) tendered for filing a First Revised Sheet No. 1 superseding Original Sheet No. 1 of its FERC Electric Tariff, Original Volume No.1. Perryville states that the revisions reflect the change in ownership that occurred June 20, 2002, and the resulting termination of Perryville's status as an affiliate of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company.

Comment Date: June 24, 2003.

11. Avista Corporation

[Docket No. ER03–913–000]

Take notice that on June 3, 2003, Avista Corporation (Avista) submitted a Notice of Cancellation of TXU Energy Trading Company, LP formerly Enserch Energy Services, Inc., Rate Schedule No. 260.

Avista seeks all waivers necessary to allow the cancellation to be effective as of May 31, 2003. Avista also states that a copy of the filing has been provided to TXU Energy Trading Company.

Comment Date: June 24, 2003.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* , using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–14922 Filed 6–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2233–004, et al.]

Midwest Independent Transmission System Operator, Inc., et al.; Electric Rate and Corporate Filings

June 4, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Midwest Independent Transmission System, Operator, Inc., GridAmerica Participants

[Docket Nos. ER02–2233–004 and EC03–14–004]

Take notice that on May 30, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and the GridAmerica Participants filed: (1) a Second Amended and Restated Appendix I ITC Agreement between GridAmerica LLC and the Midwest ISO; and (2) revised protocols describing the functions to be performed by GridAmerica, the Midwest ISO and the GridAmerica Companies pursuant to the May 15, 2003 Order of the Federal Energy Regulatory Commission, Midwest Independent Transmission System Operator Inc., 103 FERC • 61,178 (2003).

The Midwest ISO has requested waiver of the requirements set forth in 18 CFR 385.2010. The Midwest ISO states that it has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners,

the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, Midwest ISO states that the filing has been electronically posted on the Midwest ISO's Web site at *http://www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter.

Comment Date: June 20, 2003.

2. Southern Company Services, Inc.

[Docket No. ER03–355–003]

Take notice that on May 30, 2003, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively Southern Companies), resubmitted one rollover transmission service agreement under the Open Access Transmission Tariff of Southern Companies (FERC Electric Tariff, Fourth Revised Volume No. 5). Southern Companies state that the agreement is for firm point-to-point rollover transmission service with Oglethorpe Power Corporation (OPC) (First Revised Service Agreement No. 431), and it is being refiled to comply with the Commission's Order in this proceeding dated May 2, 2003.

Comment Date: June 20, 2003.

3. Devon Power LLC

[Docket No. ER03–563–007]

Take notice that on May 30, 2003, ISO New England Inc., submitted a compliance filing in accordance with the Commission's April 25, 2003 Order in Docket No. ER03–563–000.

ISO New England Inc., stated that copies of said filing have been served upon all parties to this proceeding, and upon NEPOOL Participants, as well as upon the utility regulatory agencies of the six New England States.

Comment Date: June 20, 2003.

4. Midwest Independent Transmission System Operator, Inc., GridAmerica Companies

[Docket Nos. ER03–580–002 and EL03–119–002]

Take notice that on May 30, 2003, the GridAmerica Companies and the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission) proposed revisions to the Midwest ISO Open Access Transmission Tariff (OATT), FERC Electric Tariff, Second Revised Volume No. 1, in compliance with the Commission's Order in Midwest Independent Transmission System Operator Inc., 103 FERC ¶ 61,090 (2003).

The Applicants have requested that the proposed revisions become effective upon the commencement of service over the GridAmerica transmission facilities under the Midwest ISO OATT.

The Applicants have also requested waiver of the service requirements set forth in 18 CFR 385.2010. The Applicants state that they have electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's Web site at *http://www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter. The Applicants will provide hard copies to any interested parties upon request.

Comment Date: June 20, 2003.

5. FPL Energy New England Transmission, LLC

[Docket No. ER03–809–000]

Take notice that on May 30, 2003, FPL Energy New England Transmission, LLC submitted a Notice of Withdrawal of the proposed interconnection agreement filed on May 2, 2003.

Comment Date: June 20, 2003.

6. NJR Natural Energy Company

[Docket No. ER03–892–000]

Take notice that on May 27, 2003, NJR Natural Energy Company (NJRNE) tendered for filing a Notice of Cancellation of its FERC Electric Rate Schedule No. 1, which provides for the purchase and resale of electricity at market-based rates.

Comment Date: June 17, 2003.

7. Central Vermont Public Service Corporation

[Docket No. ER03–893–000]

Take notice that on May 30, 2003, Central Vermont Public Service Corporation (CVPS) tendered for filing the Actual 2002 Cost Report required under Paragraph Q–1 on Original Sheet No. 18 of the Rate Schedule FERC No. 135 (RS–2 Rate Schedule) under which Central Vermont Public Service Corporation sells electric power to Connecticut Valley Electric Company Inc. (Customer). The Actual 2002 Cost Report supports a refund to the Customer in the amount of $202,975.01, including interest, as provided by the RS–2 Rate Schedule. The Actual 2002 Cost Report reflects changes to the RS–2 Rate Schedule which were approved by the Commission's June 6, 1989 Order in Docket No. ER88–456–000.

CVPS states that copies of the filing were served upon the Customer, the New Hampshire Public Utilities Commission, and the Vermont Public Service Board.

Comment Date: June 20, 2003.

8. New England Power Pool

[Docket No. ER03–894–000]

Take notice that on May 29, 2003, the New England Power Pool (NEPOOL), jointly with ISO New England Inc. (the ISO) submitted for filing the Hydro-Quebec Interconnection Capability Credit (HQICC) values established by the Participants Committee pursuant to the Restated NEPOOL Agreement for the 2003/2004 NEOOL Power Year. This filing is made pursuant to section 205 of the Federal Power Act, 16 U.S.C. 824(d), in accordance with the Commission's direction in the April 30, 2003 order on rehearing in Docket Nos. EL03–25–001, –002, and –003, *NSTAR Electric & Gas Corporation, et al.* v. *New England Power Pool,* 103 FERC ¶ 61,093. A June 1, 2003 effective date is requested for implementation of these HQICC values. NEPOOL and the ISO have also requested expedited Commission action with respect to this filing.

NEPOOL states that copies of these materials were sent to the NEPOOL Participants, Non-Participant Transmission Customers and the New England state governors and regulatory commissions.

Comment Date: June 19, 2003.

9. White Pine Copper Refinery, Inc.

[Docket No. ER03–895–0000]

Take notice that on May 30, 2003, White Pine Copper Refinery, Inc. (White Pine) petitioned the Commission for acceptance, on a limited and temporary basis, of White Pine's Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

White Pine states that it intends to engage in wholesale electric power and energy purchases and sales as a marketer. White Pine also states that it is not in the business of generating or transmitting electric power.

Comment Date: June 13, 2003.

10. Southwest Power Pool, Inc.

[Docket No. ER03–896–000]

Take notice that on May 30, 2003, Southwest Power Pool, Inc. (SPP)

submitted for filing an unexecuted service agreement for Firm Point-to-Point Transmission Service with Kansas Municipal Energy Agency (KMEA). SPP seeks an effective date of May 1, 2003 for the service agreement.

SPP states that KMEA was served with a copy of this filing.

Comment Date: June 20, 2003.

11. Southwest Power Pool, Inc.

[Docket No. ER03–897–000]

Take notice that on May 30, 2003, Southwest Power Pool, Inc. (SPP) submitted for filing an executed service agreement for Firm Point-to-Point Transmission Service with Western Resources d/b/a Westar Energy (Westar). SPP seeks an effective date of May 1, 2003 for the service agreement.

SPP states that Westar was served with a copy of this filing.

Comment Date: June 4, 2003.

12. Bangor-Hydro Electric Company

[Docket No. ER03–898–000]

Take notice that on May 30, 2003, Bangor-Hydro Electric Company (BHE) submitted for filing proposed revisions to its open access transmission tariff (OATT) that respond to the Maine Public Utilities Commission's (MPUC) request that BHE coordinate retail rate changes with BHE's annual distribution rate changes. The effect of the proposed revisions is to change the effective date for BHE's annual retail rate changes (calculated pursuant to the Rate Formula in BHE's OATT) from June 1 to July 1. BHE requests an effective date of June 1, 2003 for the proposed tariff revisions.

BHE states that copies of this filing were served on BHE's jurisdictional customers and affected state commissions, including the MPUC.

Comment Date: June 20, 2003.

13. New England Power Pool

[Docket No. ER03–899–000]

Take notice that on May 30, 2003, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance materials to permit NEPOOL to expand its membership to include SESCO Enterprises, LLC (SESCO). The Participants Committee requests a June 1, 2003 effective date for commencement of participation in NEPOOL by SESCO.

NEPOOL Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment Date: June 20, 2003.

14. Duke Energy Corporation

[Docket No. ER03–900–000]

Take notice that on May 30, 2003, Duke Energy Corporation, on behalf of Duke Electric Transmission, (collectively, Duke) tendered for filing executed Service Agreements between Duke and Split Rock Energy LLC for Firm and Non-Firm Point-to-Point Transmission Service under Duke's Open Access Transmission Tariff. Duke seeks an effective date for the Service Agreements of May 12, 2003.

Comment Date: June 20, 2003.

15. Midwest Independent Transmission

[Docket No. ER03–901–000 System Operator, Inc.]

Take notice that on May 30, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing proposed amendments to transmission service agreements (Service Agreements) between: (1) Midwest ISO and the Michigan Public Power Agency (MPPA), for itself and as agent for Wolverine Power Supply Cooperative, Inc. (Wolverine), for Network Integration Transmission Service (NITS) for load located within the Michigan Electric Transmission Company, LLC (METC) pricing zone; (2) the Midwest ISO and MPPA for Non-Firm Point-to-Point Transmission Service; (3) the Midwest ISO and MPPA for Short-Term Firm Point-to-Point Transmission Service; (4) the Midwest ISO and MPPA for Long-Term Firm Point-to-Point Transmission Service; (5) the Midwest ISO and City of Holland (Holland) for Long-Term Firm Point-to-Point Transmission Service; (6) the Midwest ISO and Holland for Short-Term Firm Point-to-Point Transmission Service and (7) the Midwest ISO and Holland for Non-Firm Point-to-Point Transmission Service under the Midwest ISO open access transmission tariff (OATT or Tariff). Midwest ISO states that the Service Agreements amend the existing agreements between those parties, and will allow for the recovery of certain charges historically recovered from these customers that were omitted from the current versions of the Service Agreements currently on file with the Commission.

The Applicants have also requested waiver of the service requirements set forth in 18 CFR 385.2010. The Applicants states that they have electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, Midwest ISO indicates that the filing has been electronically posted on the Midwest ISO's Web site at *http://www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter. The Applicants states that they will provide hard copies to any interested parties upon request.

Comment Date: June 20, 2003.

16. Commonwealth Edison Company

[Docket No. ER03–902–000]

Take notice that on May 30, 2003, Commonwealth Edison Company (ComEd) tendered for filing with the Federal Energy Regulatory Commission (Commission) seven Service Agreements entered into between ComEd and Wisconsin Electric Power Marketing and associated Dynamic Scheduling Agreement entered into between ComEd and Wisconsin Electric Power Company under ComEd's Open Access Transmission Tariff.

ComEd requests effective dates of June 1, 2003, and June 1, 2004, and accordingly, requests waiver of the notice requirements.

ComEd states that copies of the filing were served upon Wisconsin Electric Power Marketing, Wisconsin Electric Power Company, the Wisconsin Public Service Commission and the Illinois Commerce Commission.

Comment Date: June 20, 2003.

17. Pacific Gas and Electric Company

[Docket No. ER03–903–000]

Take notice that on May 30, 2003, Pacific Gas and Electric Company (PG&E) tendered for filing the 2001 true-up to rates pursuant to Contract No. 14–06–200–2948A (Contract 2948A), PG&E First Revised Rate Schedule FERC No. 79, between PG&E and the Western Area Power Administration (Western).

PG& E states that copies of this filing have been served upon Western and the California Public Utilities Commission.

Comment Date: June 20, 2003.

18. Riverside Canal Power Company, Inc.

[Docket No. ER03–904–000]

Take notice that on May 30, 2003, Riverside Canal Power Company (Riverside) filed a Notice of Cancellation of its FERC Electric Tariff, First Revised Volume No. 1. Riverside indicates that it has been unmanned and the units have been offline since October 2000. Riverside requests that its Notice of Cancellation be effective as of May 29, 2003.

Riverside states that copies of the filing were served upon the parties of record in this docket.

Comment Date: June 20, 2003.

19. Xcel Energy Services, Inc.

[Docket No. ER03–905–000]

Take notice that on May 30, 2003, Xcel Energy Services, Inc. (XES), on behalf of Southwestern Public Service Company (SPS), submitted for filing an Exhibit A to the Wholesale Full Requirements Electric Power Service Agreement between SPS and Farmers' Electric Cooperative, Inc. of New Mexico (Farmers').

XES requests that this agreement become effective on May 30, 2003.

Comment Date: June 30, 2003.

20. Southwestern Electric Power Company

[Docket No. ER03–906–000.

Take notice that on May 30, 2003, Southwestern Electric Power Company (SWEPCO) submitted for filing actuarial reports in support of the amounts to be collected in SWEPCO's 2002 actual and 2003 projected formula rates for post-employment benefits other than pensions as directed by the Statement of Financial Accounting Standard No. 106 (SFAS 106), issued by the Financial Accounting Standards Board, and the collection in such formula rates of other post-employment benefits as directed by SFAS 112.

SWEPCO seeks an effective date of January 1, 2002 and, accordingly, requests waiver of the Commission's notice requirements. SWEPCO states it has served copies of the transmittal letter on all of its formula rate customers, the Arkansas Public Service Commission, the Louisiana Public Service Commission and the Public Utility Commission of Texas.

Comment Date: June 20, 2003.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–14923 Filed 6–12ndash;03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Proposed Rates for Loveland Area Projects Transmission and Ancillary Services

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed rates.

SUMMARY: The Western Area Power Administration (Western) is proposing rates for Loveland Area Projects (LAP) transmission and ancillary services. Current rates have been extended through March 31, 2004. The proposed rates, which are formula based, will provide sufficient revenue to pay all annual costs, including interest expense, and repayment of required investment within the allowable period. Rate impacts are detailed in a brochure to be made available to all interested parties. The proposed rates are scheduled to go into effect on January 1, 2004, and will remain in effect through December 31, 2008. This **Federal Register** notice begins the formal process for the proposed rates.

DATES: The consultation and comment period begins today and will end September 11, 2003. Western will present a detailed explanation of the proposed rates at the following public information forums:

1. July 14, 2003, 9 a.m. MDT, Denver, Colorado.

2. July 15, 2003, 1 p.m. CDT, Lincoln, Nebraska.

Western will receive oral and written comments at the following public comment forum:

3. August 6, 2003, 11 a.m. MDT, Denver, Colorado.

ADDRESSES: The public information forums will be held at the following locations:

1. Denver, Radisson Stapleton Plaza Hotel, 3333 Quebec Street, Denver, Colorado.

2. Lincoln, Southeast Community College, 11th and O Street, Lincoln, Nebraska.

The public comment forum will be held at the following location:

3. Denver, Radisson Stapleton Plaza Hotel, 3333 Quebec, Denver, Colorado.

Written comments should be sent to: Joel K. Bladow, Regional Manager, Rocky Mountain Customer Service Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538–8986, e-mail: *LAPTransAdj@wapa.gov.* Official comments received via letter and e-mail, as well as other pertinent information, will be posted to our Web site located at *http://www.wapa.gov/rm/rm.htm* after the comment period has closed. To assure consideration of written comments, Western must receive them by the end of the consultation and comment period.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel T. Payton, Rates Manager, Rocky Mountain Customer Service Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538–8986, telephone (970) 461–7442, e-mail: *dpayton@wapa.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Rates for LAP Transmission

Western does not propose to change the formula-based rate methodology for calculating the revenue requirement for Network, Firm, and Non-Firm transmission services. Rates for these services will be recalculated each year to incorporate the most recent financial and load information and will be applicable to all transmission customers.

Proposed Revenue Requirement for Transmission Service

An annual fixed charge rate methodology is used to determine the revenue requirement to be recovered from Network, Firm, and Non-Firm transmission services. The annual transmission costs included are operation and maintenance expenses, administrative and general expenses, interest expense, and depreciation expense. Transmission expenses, which increase transmission capacity, are also included in the revenue requirement. These expenses are estimated to be $500,000 for FY 2004.

Proposed Rate for Network Transmission Service

The methodology for calculating the Network Transmission Service rate is unchanged from Western's previously approved filing with the Federal Energy Regulatory Commission (FERC). The current methodology derives a network customer's monthly charge by multiplying a customer's load ratio share times one-twelfth (1/12) of the annual network transmission revenue requirement. The proposed revenue requirement for Fiscal Year 2004 is decreasing from $40,570,808 to $38,776,237 or 4.4 percent, based on FY 2002 financial data.

Proposed Rate for Firm Point-to-Point Transmission Service

The proposed rate for Firm Point-to-Point Transmission Service is decreasing from $2.88 per kilowattmonth (kW-month) to $2.68 per kW-month, or 6.9 percent. The proposed rate for this service is the annual revenue requirement for transmission divided by the 12-month coincident monthly peak (12–cp) of the LAP transmission system, and divided again by 12 months. The 12-cp for the LAP transmission system for Fiscal Year 2004, is 1,206,771 kW, based on FY 2002 load data.

Proposed Rate for Non-Firm Point-to-Point Transmission Service

Non-Firm Point-to-Point Transmission Service is available for periods ranging from 1 hour to 1 month. The proposed maximum rate is 3.75 mills/kWh.

Proposed Rates for Ancillary Services

There is no change in the proposed formula-based rate methodologies for calculating revenue requirements for Scheduling, System Control, and Dispatch Service, or the Reactive Supply and Voltage Control Service from Generation Sources. The rates for Operating Reserves, both Supplemental and Spinning, are also unchanged.

The proposed rates do include changes to the formula-based rate methodologies for Regulation and Frequency Response Service and Energy Imbalance Service as outlined below. Additionally, a separate rate for Regulation and Frequency Response Service for Intermittent Renewable Resources has been added.

Two ancillary service rates, not part of the original portfolio of ancillary services filed in 1998, are also being proposed under this filing: (1) Unauthorized Use of Transmission and Control Area Resources service, and (2) Transmission Losses service.

The rates for all of these services, as proposed, are applicable to all customers within the Western Area Colorado Missouri (WACM) control area.

Proposed Rate for Scheduling, System Control, and Dispatch Service

The rate methodology for calculating the revenue requirement for the Scheduling, System Control, and Dispatch Service is unchanged from Western's previously approved filing with FERC. However, the charging basis for this rate will change from per-schedule-per-day, to per-tag-per-day. The rate for this service, as proposed, is applicable to those operating within the control area with schedules/tags that do not include any segment of the Federal transmission system.

The revenue requirement for this service in Fiscal Year (FY) 2004 will decrease from $3,970,226 to $3, 796,470, a decrease of 4 percent. This, combined with the change in the charging basis from schedule to tag, will reduce the rate from $43.09 per schedule per day, to $25.22 per tag per day.

Western will continue to apply this rate against the number of daily tags submitted for transmission transactions that are off the Federal system; *i.e.,* other than LAP or Colorado River Storage Project transmission, and charge the transmission provider.

Proposed Rate for Reactive Supply and Voltage Control Service From Generation Sources

The rate methodology for calculating the revenue requirement for the Reactive Supply and Voltage Control Service from Generation Sources is unchanged from Western's previously approved filing with FERC. The rate is applicable to all transmission transactions within WACM. Customers agreeing to respond to WACM's request for Reactive Supply and Voltage Control Service from Generation Sources will receive a waiver from this charge.

The revenue requirement for this service in FY 2004 is proposed to increase from $1,644,071 to $1,682,672, or 2 percent. In addition, the percentage of LAP capacity used to provide Reactive Supply and Voltage Control Service from Generation Sources is also proposed to increase from 2.3 percent to 2.5 percent, resulting in a slight increase in the FY 2004 rate, from $0.103/kW-month to $0.108/kW-month, or 4.9%.

Proposed Rate for Regulation and Frequency Response Service

Western proposes several changes to the rate methodology for Regulation and Frequency Response Service. The rate is applicable to all transmission transactions with load served within WACM.

Western is proposing a revised annual operational analysis to more accurately determine the amount of capacity needed to meet WACM's regulation requirements. The current analysis determined that WACM needs 75 megawatts (MW) or regulating capacity. Due to the limited availability of hydroelectric capacity, Western has determined that purchases must become a substantial part of the revenue requirement for regulation. Therefore, Western is proposing a mix of Federal resources and non-Federal purchases to provide this capacity. The amount of regulation and cost of these purchases will be revised annually to accurately reflect the capacity needed to supplement hydroelectric resources. The unit cost and revenue requirement for Federal facilities will continue to be calculated each year using the existing methodology's annual fixed charge rate.

Using the proposed methodology, the revenue requirement for Regulation and Frequency Response Service will increase from $3,727,782 to $5,031,873, an increase of 35 percent. The current rate for this service is $0.164/kW-month, and the proposed rate will be $0.185/kW-month, an increase of 13 percent.

Proposed Rate for Regulation and Frequency Response Service for Intermittent Renewable Resources

Western supports the installation of renewable sources of energy, but recognizes certain operational constraints exist in managing the significant fluctuations that are a normal part of their operation. These fluctuations require that a rate be developed and implemented that will recover the expenses associated with such variation in capacity. Therefore, Western is also proposing a rate for the regulation requirement associated with intermittent renewable resources.

The rate would be derived from the revenue requirement established for load-based Regulation and Frequency Response Service, $5,031,873; however, the basis would be a charge per unit of capacity. The rate is proposed to be $5.59/kW-month, and would be applied against the amount of capacity used.

An analysis done by Western to measure the variation of intermittent renewable resources within WACM indicates that 27 percent of the nameplate capacity of those units is required for regulation.

Western plans to offer resource owners a credit for more closely matching generation schedules with

actual output. Also, Western is proposing additional charges for resource owners utilizing more than the 27 percent of nameplate capacity.

Proposed Rate for Energy Imbalance Service

No significant changes are proposed for Energy Imbalance Service, but minor modifications are being proposed as a result of public feedback since implementation in July 2002. The rate is applicable to customers with resources and obligations within WACM. Three modifications to the existing rate are being proposed.

The first proposed modification is the expansion of the minimum deviation from 2 MW TO 4 MW.

The second proposed modification is that the hourly energy imbalance will be rounded to the nearest whole number; *e.g.,* 0.4 and below will be rounded down to the nearest whole number, and 0.5 and above will be rounded up to the nearest whole number.

The third proposed modification is a reduction of the penalty associated with excursions for over or under deliveries outside of the bandwidth. The penalty will be reduced from 50 percent to 25 percent.

Western will continue to use a ±5 percent bandwidth, the application of aggregate control area pricing to under or over deliveries within the bandwidth, and LAP average real-time pricing for Energy Imbalance Service.

Proposed Rates for Operating Reserves Service—Spinning and Supplemental

This proposed rate is unchanged. Western is only able to meet its own internal requirements for reserves, and has no long-term reserves available for sale. At a customer's request, Western will purchase and pass through the cost of reserves and any activation energy, plus a fee for administration. For all reserves purchased, the customer will be responsible for purchasing adequate transmission to support the purchase.

Proposed Rate for Unauthorized Use of Transmission and Control Area

Resources Service

This rate, currently approved as a rate for short-term sales by Western's Administrator through March 31, 2004, is proposed to be included in Western's ancillary services portfolio.

The proposed rate will be applicable to all transmission customers utilizing Western-managed facilities without adequate reservation. The charge will be 150 percent of the transmissions service at issue; *i.e.,* hourly, daily, weekly, monthly, with a maximum levy of a monthly charge.

Proposed Rate for Transmission Losses Service

This rate was also approved as a rate for short-term sales by Western's Administrator through March 31, 2004, and is proposed for transition into Western's ancillary service portfolio.

No significant changes are proposed for this service. The only modification will be a pricing change to calculate the cost of the loss energy. Currently, the pricing used for this valuation is Palo-Verde on- and off-peak daily pricing. Western proposes changing to LAP average real-time purchase prices.

These transmission and ancillary service rates for LAP are being established pursuant to the Department of Energy Organization Act, 42 U.S.C. 7101–7352; the Reclamation Act of 1902, ch. 1093, 32 Stat. 388, as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c); and other acts specifically applicable to the projects involved.

By Delegation Order No. 00–037.00, approved December 6, 2001, the DOE Secretary of Energy delegated (1) the authority to develop power and transmission rates on a nonexclusive basis to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to FERC. Existing DOE procedures for public participation in power rate adjustments (10 CFR part 903) became effective on September 18, 1985 (50 FR 37835).

Comparison of Rates and Revenue Requirements

	Proposed January 2004 rate	FY 2003 rate
Transmission:		
Point-to-Point Rates:		
Firm Transmission	$2.68/kW-month	$2.88/kW-month.
Non-Firm Transmission	3.75 mills/kWh	3.75 mills/kWh.
Network Revenue Requirement	$38,776,237	$40,570,808.
Scheduling, System Control, and Dispatch Service.	$25.22/tag/day Revenue Requirement: $3,796,470.	$43.09/schedule/day Revenue Requirement: $3,970,226.
Reactive Supply and Voltage Control Service from Generation Sources.	$0.108/kW-month Revenue Requirement: $1,682,672.	$0.103/kW-month Revenue Requirement: $1,644,071.
Regulation and Frequency Response Service	$0.185/kW-month Revenue Requirement $5,031,873.	$0.164/kW-month Revenue Requirement: $3,727,782.
Regulation and Frequency Response Service for Intermittent Renewable Resources.	$5.59/kW-month Revenue Requirement: $5,031,873.	No rate developed.
Energy Imbalance Service	Bandwith: ±5% Minimum Deviation: 4 MW Outside Bandwidth Penalty: 25% Pricing: LAP average real-time purchase/sales pricing with defaults.	Bandwith: ±5%. Minimum Deviation: 2 MW. Outside Bandwidth Penalty: 50%. Pricing: LAP average real-time purchase/sales pricing with defaults.
Operating Reserves Service (Spinning/Supplemental).	None available for long-term purchase. Western will offer to purchase and pass through cost, plus 10% for administration.	None available for long-term purchase. Western will offer to purchase and pass through cost, plus 10% for administration.
Unauthorized Use of Transmission and Control Area Resources Service.	150% of monthly demand charge for service-at-issue.	150% of monthly demand charge for service-at-issue.
Transmission Losses Service	Assessed WACM postage-stamp loss rate to all scheduled transmission transactions. Pricing: LAP average real-time purchase/sale pricing with defaults.	Assessed WACM postage-stamp loss rate to all scheduled transmission transactions. Pricing: Palo Verde daily on-/off-peak pricing.

Availability of Information

All brochures, studies, comments, letters, memorandums, or other documents made or kept by Western in developing the proposed rates are available for inspection and copying at the Rocky Mountain Customer Service Regional Office, located at 5555 East Crossroads Boulevard, Loveland, Colorado. Many of these documents, as well as supporting information, are also available on our website at the following address: *http://www.wapa.gov/rm/rm.htm.*

Regulatory Procedure Requirements

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities and there is a legal requirement to issue a general notice of proposed rulemaking. This action does not require a regulatory flexibility analysis since it is a rulemaking involving rates or services applicable to public property.

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*); Council on Environmental Quality Regulations (40 CFR parts 1500–1508); and DOE NEPA Regulations (10 CFR part 1021), Western has determined that this action is categorically excluded from preparing an environmental assessment or an environmental impact statement.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; so this notice requires no clearance by the Office of Management and Budget.

Small Business Regulatory Enforcement Fairness Act

Western has determined that this rule is exempt from congressional notification requirements under 5 U.S.C. 801 because the action is rulemaking of particular applicability relating to rates or services and involves matters of procedure.

Dated: May 30, 2003.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 03–14947 Filed 6–12–03; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

Western Area Power Administration

Proposed Rates for Loveland Area Projects Firm Electric Service

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed rates.

SUMMARY: The Western Area Power Administration (Western) is proposing revised rates for Loveland Area Projects (LAP) firm electric service. Current rates, under Rate Schedule L–F4, have been extended through March 31, 2004. The proposed rates will provide sufficient revenue to pay all annual costs, including interest expense and repayment of required investment within the allowable period. The rate impacts will be detailed in a brochure to be made available to all interested parties. The proposed rates, under Rate Schedule L–F5, are scheduled to go into effect on January 1, 2004, and will remain in effect through December 31, 2008. Publication of this **Federal Register** notice begins the formal process for the proposed rates.

DATES: The consultation and comment period begins today and will end September 11, 2003.

Western will present a detailed explanation of the proposed rates at the following public information forums:

1. July 14, 2003, 1 p.m. MDT in Denver, Colorado.

2. July 15, 2003, 9 a.m. CDT in Lincoln, Nebraska.

Western will receive oral and written comments at the following public comment forum:

1. August 6, 2003, 1 p.m. MDT in Denver, Colorado.

ADDRESSES: The public information forums will be held at the following locations:

1. Denver, Radisson Stapleton Plaza Hotel, 3333 Quebec Street, Denver, Colorado.

2. Lincoln, Southeast Community College, 11th and O Street, Lincoln, Nebraska.

The public comment forum will be held at the following location:

1. Denver, Radisson Stapleton Plaza Hotel, 3333 Quebec, Denver, Colorado.

Written comments should be sent to: Joel K. Bladow, Regional Manager, Rocky Mountain Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538–8986, or email: *lapfirmadj@wapa.gov.* Official comments received via letter and e-mail will be posted to our Web site located under the ''2004 Rate Adjustments'' section at *http://www.wapa.gov/rm/rm.htm* after the close of the 90-day consultation and comment period. Western must receive written comments by the end of the consultation and comment period to be assured consideration.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel T. Payton, Rates Manager, Rocky Mountain Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538–8986, telephone (970) 461–7442, email: *dpayton@wapa.gov.*

SUPPLEMENTARY INFORMATION: The proposed rates for LAP firm electric service are designed to recover an annual revenue requirement that includes investment repayment, interest, purchase power, operation and maintenance, and other annual expenses. The projected annual revenue requirement for firm electric service is allocated equally between capacity and energy.

The Department of Energy (DOE) Deputy Secretary approved Rate Schedule L–F4 for LAP firm electric service on an interim basis on January 6, 1994 (Rate Order No. WAPA–61, 59 FR 3339, January 21, 1994), and the Federal Energy Regulatory Commission (FERC) confirmed and approved the rate schedule on a final basis on July 14, 1994, under FERC Docket No. EF94–5181–000 (68 FERC 62,040). Rate Schedule L–F4 was approved for a 5-year period beginning on February 1, 1994, ending on January 31, 1999. Rate Order No. WAPA–82 extended the existing rate for 2 years, beginning February 1, 1999, through January 31, 2001. Rate Order No. WAPA–89 extended the rate again beginning February 1, 2001, through September 30, 2003. FERC confirmed and approved the rate schedule on August 4, 2000, under FERC Docket No. EF00–5181–000 (92 FERC 62,093). Rate Order No. WAPA–103 extended the rate a third time beginning October 1, 2003, through March 31, 2004.

Under Rate Schedule L-F4, the composite rate effective on October 1, 1994, is 21.70 mills per kilowatthour (mills/kWh); the energy rate is 10.85 mills/kWh and the capacity rate is $2.85 per kilowattmonth (kW-month). Under Rate Schedule L–F5, the proposed rates for LAP firm electric service will result in an overall composite rate increase of approximately 9.7 percent effective on January 1, 2004. The proposed rates for LAP firm electric service are listed in Table 1.

TABLE 1.—PROPOSED FIRM ELECTRIC SERVICE REVENUE REQUIREMENT AND RATES

Firm electric service	Existing revenue requirement/rates	Proposed rev req./rates Jan. 1, 2004	Percent change
LAP Revenue Requirement	$44.3 million	$48.6 million	9.7
Total LAP Composite Rate	21.70 mills/kWh	23.81 mills/kWh	9.7
Firm Energy	10.85 mills/kWh	11.91 mills/kWh	9.8
Firm Capacity	2.85/kW-month	3.14/kW-month	10.2

Although a one-step rate adjustment method is the option being proposed, Western is interested in receiving comments on a two-step rate adjustment option. Under a two-step method, the rates for LAP firm electric service will result in an overall composite rate increase of approximately 7.8 percent effective on January 1, 2004, and another 1.9 percent effective on October 1, 2004, for a total increase of approximately 9.7 percent. The rates under this option for LAP firm electric service are listed in Table 2.

TABLE 2.—TWO-STEP OPTION—FIRM ELECTRIC SERVICE REVENUE REQUIREMENT AND RATES

Firm electric service	Existing rates	First step rates Jan. 1, 2004	Percent change	Second step rates Oct. 1, 2004	Percent change
LAP Revenue Requirement	$44.3 million	$47.7 million	7.7	$48.6 million	1.9
Total LAP Composite Rate	21.70 mills/kWh	23.39 mills/kWh	7.8	23.84 mills/kWh	1.9
Firm Energy	10.85 mills/kWh	11.69 mills/kWh	7.7	11.92 mills/kWh	2.0
Firm Capacity	2.85/kW-month	3.08/kW-month	8.1	3.14/kW-month	1.9

Since the proposed rates constitute a major adjustment as defined by the procedures for public participation in general rate adjustments, as cited below, Western will hold public information forums and a public comment forum. After review of public comments, and possible amendments or adjustments, Western will recommend the proposed rates for approval on an interim basis by the DOE Deputy Secretary.

These firm electric service rates for LAP are being established pursuant to the Department of Energy Organization Act, 42 U.S.C. 7101–7352; the Reclamation Act of 1902, ch. 1093, 32 Stat. 388, as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c); and other acts specifically applicable to the projects involved.

By Delegation Order No. 00–037.00, approved December 6, 2001, the Secretary of Energy delegated (1) the authority to develop power and transmission rates on a nonexclusive basis to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to FERC. Existing DOE procedures for public participation in power rate adjustments (10 CFR part 903) became effective on September 18, 1985 (50 FR 37835).

Availability of Information

All brochures, studies, comments, letters, memorandums, or other documents made or kept by Western in developing the proposed rates are available for inspection and copying at the Rocky Mountain Regional Office, located at 5555 East Crossroads Boulevard, Loveland, Colorado. Many of these documents, as well as supporting information, are also available on our Web site under the ''2004 Rate Adjustments'' section located at *http://www.wapa.gov/rm/rm.htm.*

Regulatory Procedure Requirements

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities and there is a legal requirement to issue a general notice of proposed rulemaking. This action does not require a regulatory flexibility analysis since it is a rulemaking involving rates or services applicable to public property.

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*); Council on Environmental Quality Regulations (40 CFR parts 1500–1508); and DOE NEPA Regulations (10 CFR part 1021), Western has determined that this action is categorically excluded from preparing an environmental assessment or an environmental impact statement.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; so this notice requires no clearance by the Office of Management and Budget.

Small Business Regulatory Enforcement Fairness Act

Western has determined that this rule is exempt from congressional notification requirements under 5 U.S.C. 801 because the action is rulemaking of particular applicability relating to rates or services and involves matters of procedure.

Dated: May 30, 2003.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 03–14948 Filed 6–12–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Proposed Rates for Pick-Sloan Missouri Basin Program-Eastern Division

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed rates.

SUMMARY: The Western Area Power Administration (Western) is proposing revised rates for Pick-Sloan Missouri

Basin Program-Eastern Division (P–SMBP–ED) firm electric and firm peaking power service. Current rates, under Rate Schedules P–SED–F6 and P–SED–FP6, have been extended through March 31, 2004. The proposed rates will provide sufficient revenue to pay all annual costs, including interest expense, and repayment of required investment within the allowable period. The rate impacts will be detailed in a brochure to be made available to all interested parties. The proposed rates, under Rate Schedules P–SED–F7 and P–SED–FP7, are scheduled to go into effect on January 1, 2004, and will remain in effect through December 31, 2008. Publication of this **Federal Register** notice begins the formal process for the proposed rates.

DATES: The consultation and comment period begins today and will end September 11, 2003. Western will present a detailed explanation of the proposed rates at public information forums. The public information forum dates are:

1. July 14, 2003, 1 p.m. to 4 p.m. MDT, Denver, CO.

2. July 15, 2003, 9 a.m. to 12 noon CDT, Lincoln, NE.

3. July 16, 2003, 9 a.m. to 12 noon CDT, Sioux Falls, SD.

4. July 17, 2003, 9 a.m. to 12 noon CDT, Fargo, ND.

Western will receive oral and written comments at public comment forums. The public comment forums will be held on the following dates:

1. August 6, 2003, 1 p.m. to 4 p.m. MDT, Denver, CO.

2. August 7, 2003, 9 a.m. to 12 noon CDT, Sioux Falls, SD.

Western will receive written comments anytime during the consultation and comment period.

ADDRESSES: Written comments should be sent to Robert J. Harris, Regional Manager, Upper Great Plains Region, Western Area Power Administration, 2900 4th Avenue North, Billings, MT 59101–1266, email: *ugp2004rateadj@wapa.gov.* Information pertaining to the rate process will be posted on our Web site at *http://www.wapa.gov/ugp/rates/2004RateAdj/Default.html.* Official comments received via letter and e-mail, will be posted to our Web site after the close of the comment period. Western must receive written comments by the end of the consultation and comment period to be assured consideration.

The public information forum locations are:

1. Denver—Radisson Stapleton Plaza, 3333 Quebec Street, Denver, CO.

2. Lincoln—Southeast Community College (1st Floor of the Energy Plaza), 11th and O Street, Lincoln, NE.

3. Sioux Falls—Ramkota Hotel and Conference Center, 2400 North Louise Avenue, Sioux Falls, SD.

4. Fargo—Doublewood Inn, 3333 13th Avenue South, Fargo, ND.

The public comment forum locations are:

1. Denver—Radisson Stapleton Plaza, 3333 Quebec Street, Denver, CO.

2. Sioux Falls—Ramkota Hotel and Conference Center, 2400 North Louise Avenue, Sioux Falls, SD.

FOR FURTHER INFORMATION CONTACT: Mr. Robert F. Riehl, Power Marketing Manager, Upper Great Plains Region, Western Area Power Administration, 2900 4th Avenue North, Billings, MT 59101–1266, telephone (406) 247–7394, email: *riehl@wapa.gov.*

SUPPLEMENTARY INFORMATION: The proposed rates for P-SMBP-ED firm electric and firm peaking service are designed to recover an annual revenue requirement that includes investment repayment, interest, purchase power, operation and maintenance expense, and other expenses. The projected annual revenue requirement for firm electric service is allocated equally between capacity and energy.

The Department of Energy (DOE) Deputy Secretary approved Rate Schedules P–SED–F6 and P–SED–FP6 for P–SMBP–ED firm electric and firm peaking service on January 6, 1994 (Rate Order No. WAPA–60, 59 FR 3348, January 21, 1994), and the Federal Energy Regulatory Commission (FERC) confirmed and approved the rate schedules on July 14, 1994, under FERC Docket No. EF94–5031–000 (68 FERC 62,040). Rate Schedules P–SED–F6 and P–FED–FP6 were approved for a 5-year period beginning on February 1, 1994, ending on January 31, 1999. Rate Order No. WAPA–83 extended the rate for 2 years, beginning February 1, 1999, through January 31, 2001. Rate Order No. WAPA–90 extended the rate again beginning February 1, 2001, through September 30, 2003. Rate Order No. WAPA–102 extended the rate a third time beginning October 1, 2003, through March 31, 2004.

Under Rate Schedule P–SED–F6 , the second step of the composite rate effective on October 1, 1994, is 14.23 mills per kilowatthour (mills/kWh), the energy rate is 8.32 mills/kWh and the capacity rate is $3.20 per kilowattmonth (kW month). Under Rate Schedule P–SED–F7, the proposed rates for P–SMBP–ED firm electric service will result in an overall composite rate increase of approximately 15.4 percent and the firm peaking rate will increase approximately 15.6 percent effective on January 1, 2004. The proposed rates for P–SMBP–ED firm electric and firm peaking service are listed in Table 1.

TABLE 1.—PROPOSED FIRM ELECTRIC SERVICE REVENUE REQUIREMENT AND RATES

Firm electric service	Existing rates	Proposed rates Jan. 1, 2004	Percent change
P–SMBP–ED Revenue Requirement	$135.2 million	$159.2 million	17.8
P–SMBP–ED Composite Rate	14.23 mills/kWh	16.42 mills/kWh	15.4
Firm Capacity	$3.20/kW month	$3.70/kW month	15.6
Firm Energy	8.32 mills/kWh	9.57 mills/kWh	15.0
Tiered > 60 Percent Load Factor	3.38 mills/kWh	7.23 mills/kWh	113.9
Firm Peaking Capacity	$3.20/kW month	$3.70/kW month	15.6
Firm Peaking Energy[1]	8.32 mills/kWh	9.57 mills/kWh	15.0

[1] Firm Peaking Energy is normally returned. This rate will be assessed in the event Firm Peaking Energy is not returned.

Although a one-step rate adjustment is the option being proposed, Western is interested in receiving comments on a two-step rate adjustment option. Under a two-step adjustment, the rates for P–SMBP–ED firm electric service will result in an overall composite rate increase of approximately 12.3 percent effective on January 1, 2004, and another 3.3 percent effective on October 1, 2004, for a total increase of approximately 15.6 percent. The rates under this option for P–SMBP–ED firm electric service are listed in Table 2.

TABLE 2.—TWO-STEP OPTION—FIRM ELECTRIC SERVICE REVENUE REQUIREMENT AND RATES

Firm electric service	Existing rates	First step rates Jan. 1, 2004	Percent change	Second step rates Oct. 1, 2004	Percent change
P–SMBP–ED Revenue Requirement	$135.2 million	$154.9 million	14.6	$159.5 million	3.4
P–SMBP–ED Composite Rate	14.23 mills/kWh	15.98 mills/kWh	12.3	16.45 mills/kWh	3.3
Firm Capacity	$3.20/kW month	$3.60/kW month	12.5	$3.71/kW month	3.4
Firm Energy	8.32 mills/kWh	9.31 mills/kWh	11.9	9.58 mills/kWh	3.3
Tiered > 60 Percent Load Factor	3.38 mills/kWh	7.23 mills/kWh	113.9	7.23 mills/kWh	0.0
Firm Peaking Capacity	$3.20/kW month	$3.60/kW month	12.5	$3.71/kW monrh	3.4
Firm Peaking Energy[1]	8.32 mills/kWh	9.31 mills/kWh	11.9	9.58 mills/kWh	3.3

[1] Firm Peaking Energy is normally returned. This rate will be assessed in the event Firm Peaking Energy is not returned.

Since the proposed rates constitute a major adjustment as defined by the procedures for public participation in general rate adjustments, as cited below, Western will hold both a public information forum and a public comment forum. After review of public comments, and possible amendments or adjustments, Western will recommend the proposed rates for approval on an interim basis by the DOE Deputy Secretary.

These firm electric service rates for P–SMBP–ED are being established pursuant to the Department of Energy Organization Act, 42 U.S.C. 7101–7352; the Reclamation Act of 1902, ch. 1093, 32 Stat. 388, as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c); and other acts specifically applicable to the projects involved.

By Delegation Order No. 00–037.00, approved December 6, 2001, the DOE Secretary of Energy delegated: (1) The authority to develop power and transmission rates on a nonexclusive basis to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to FERC. Existing DOE procedures for public participation in power rate adjustments (10 CFR part 903) became effective on September 18, 1985 (50 FR 37835).

Availability of Information

All brochures, studies, comments, letters, memorandums, or other documents made or kept by Western in developing the proposed rates are available for inspection and copying at the Upper Great Plains Regional Office, located at 2900 4th Avenue North, Billings, Montana. Many of these documents and supporting information are also available on our Web site under the ''2004 Rate Adjustment'' section located at *http://www.wapa.gov/ugp/rates/2004RateAdj/Default.htm.*

Regulatory Procedure Requirements

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities and there is a legal requirement to issue a general notice of proposed rulemaking. This action does not require a regulatory flexibility analysis since it is a rulemaking involving rates or services applicable to public property.

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*); Council on Environmental Quality Regulations (40 CFR parts 1500–1508); and DOE NEPA Regulations (10 CFR part 1021), Western has determined that this action is categorically excluded from preparing an environmental assessment or an environmental impact statement.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; so this notice requires no clearance by the Office of Management and Budget.

Small Business Regulatory Enforcement Fairness Act

Western has determined that this rule is exempt from congressional notification requirements under 5 U.S.C. 801 because the action is a rulemaking of particular applicability relating to rates or services and involves matters of procedure.

Dated: May 30, 2003.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 03–14949 Filed 6–12–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Pick-Sloan Missouri Basin Program—Eastern Division—Order Confirming and Approving an Extension of the Transmission Service Rate Schedules—Rate Order No. WAPA–100

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of rate order.

SUMMARY: This action is to extend the existing Pick-Sloan Missouri Basin Program—Eastern Division (P–SMBP–ED) Transmission Service Rate Schedules (UGP–AS1, UGP–AS2, UGP–AS3, UGP–AS4, UGP–AS5, UGP–AS6, UGP–FTP1, UGP–NFPT1, and UGP–NT1 of Rate Order No. WAPA–79, through September 30, 2005. The existing Transmission Service Rate Schedules will expire on July 31, 2003. These Transmission Service Schedules contain formulary rates that are recalculated from yearly updated financial and load data. Rate Order No. WAPA–79 is extended under Rate Order No. WAPA–100.

FOR FURTHER INFORMATION CONTACT: Mr. Robert F. Riehl, Power Marketing Manager, Upper Great Plains Customer Service Region, Western Area Power Administration, P.O. Box 35800, Billings, MT 59107–5800, (406) 247–7388, or e-mail *riehl@wapa.gov.*

SUPPLEMENTARY INFORMATION: By Delegation Order No. 00–037.00 effective December 6, 2001, the Secretary of Energy delegated (1) The authority to develop power and transmission rates on a non-exclusive basis to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC).

Pursuant to Delegation Order No. 0204–108 and existing Department of

Energy procedures for public participation in rate adjustments at 10 CFR part 903, Western's P–SMBP–ED Transmission Service Rate Schedules were submitted to FERC for confirmation and approval on August 3, 1998. On November 25, 1998, in Docket No. EF98–5031–000 at 85 FERC ¶ 61,273, the FERC issued an order confirming, approving, and placing into effect on a final basis the current Transmission Service Rate Schedules for the P–SMBP–ED. The FERC issued an order denying rehearing and rejecting an untimely request for rehearing on the Transmission Service Rate Schedules on April 12, 2002, in Docket No. EF98–5031–001 at 99 FERC ¶ 61,055. The Transmission Service Rate Schedules, Rate Order No. WAPA–79, were approved for 5 years beginning August 1, 1998, and ending July 31, 2003.

Western is currently evaluating several options for joining a FERC-approved Regional Transmission Organization. That decision could redefine our current rate provisions. Therefore, Western believes it is premature to proceed with a formal rate process at this time. Extending the existing Transmission Service Rate Schedules UGP–AS1, UGP–AS2, UGP–AS3, UGP–AS4, UGP–AS5, UGP–AS6, UGP–FTP1, UGP–NFPT1, and UGP–NT1 to September 30, 2005, should provide enough time to complete our evaluation process. Western proposes to extend the current rate schedules pursuant to 10 CFR part 903.23. Upon its approval, Rate Order No. WAPA–79 will be extended under Rate Order No. WAPA–100.

Western's existing formulary Transmission Service Rate Schedules, which are recalculated annually, would sufficiently recover project expenses (including interest) and capital requirements through September 30, 2005.

Consistent with 10 CFR 903.23(a), Western did not have a consultation and comment period. The notice of an extension of the Transmission Service Rate Schedules was published in the **Federal Register** on March 4, 2003.

Following review of Western's proposal within the Department of Energy, I approved Rate Order No. WAPA–100, which extends the existing Transmission Service Rate Schedules UGP–AS1, UGP–AS2, UGP–AS3, UGP–AS4, UGP–AS5, UGP–AS6, UGP–FTP1, UGP–NFPT1, and UGP–NT1 on an interim basis through September 30, 2005. Rate Order No. WAPA–100 will be submitted to FERC for confirmation and approval on a final basis.

Dated: June 4, 2003.

Kyle E. McSlarrow,

Deputy Secretary.

In the matter of: Western Area Power Administration Rate Extension for Pick-Sloan Missouri Basin Program-Eastern Division Transmission Service Rate Schedules

This rate extension was established following section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7152(a), (Act). This Act transferred to and vested in the Secretary of Energy (Secretary) the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation under the Reclamation Act of 1902, (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent enactments, particularly seciton 9(c) and other acts that specifically apply to the project involved.

By Delegation Order No. 00–037.00 effective December 6, 2001, the Secretary of Energy delegated (1) the authority to develop long-term power and transmission rates on a non-exclusive basis to the Administrator of the Western Area Power Administration (Western); (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). This rate extension is issued following the Delegation Order and the DOE rate extension procedures at 10 CFR part 903.

Background

On November 25, 1998, in Docket No. EF98–5031–000 at 85 FERC ¶ 61,273, the FERC issued an order confirming, approving, and placing into effect on a final basis the Transmission Service Rate Schedules UGP–AS1, UGP–AS2, UGP–AS3, UGP–AS4, UGP–AS5, UGP–AS6, UGP–FTP1, UGP–NFPT, and UGP–NT1 for the Pick-Sloan Missouri Basin Program—Eastern Division (P–SMBP–ED). The Transmission Service Rate Schedules, Rate order No. WAPA–79, were approved for 5 years beginning August 1, 1998, through July 31, 2003. The FERC issued an order denying rehearing and rejecting an untimely request for rehearing on the Transmission Service Rate Schedules on April 12, 2002, in Docket No. EF98–5031–001 at 99 FERC ¶ 61,055. On July 31, 2003, the P–SMBP–ED Transmission Service Rate Schedules will expire. This makes it necessary to extend the current rates pursuant to 10 CFR part 903. With this approval, Rate Order No. WAPA–79 will be extended under Rate Order WAPA–100. A notice of an extension of the Transmission Service Rate Schedules was published in the **Federal Register** on March 4, 2003. Therefore, Western is extending P–SMBP–ED Transmission Service Rate Schedules under Rate Order No. WAPA–100.

Discussion

On July 31, 2003, the Western's P–SMBP–ED Transmission Service Rate Schedules expire. This makes it necessary to extend the current Rate Schedules , UGP–AS1, UGP–AS2, UGP–AS3, UGP–AS4, UGP–AS5, UGP–AS6, UGP–FTP1, UGP–NFPT1, and UGP–NT1, under 10 CFR part 903.23(a). Western's existing formulary Transmission Service Rate Schedules, which are recalculated annually, would sufficiently recover project expenses (including interest) and capital requirements through September 30, 2005.

Western proposes to extend the existing the P–SMBP–ED Transmission Service Rate Schedules through September 30, 2005. Western is currently evaluating several options for joining a FERC-approved Regional Transmission Organization. That decision could redefine our current rate provisions. Therefore, Western believes it is premature to proceed with a formal rate process at this time. Extending the existing Transmission Service Rate Schedules to September 30, 2005, should provide enough time to complete our evaluation process.

Consistent with 10 CFR part 903.23(a), Western did not have a consultation and comment period. The notice of proposed extension of the Transmission Service Rate Schedules was published in the **Federal Register** on March 4, 2003.

Order

In view of the above and under the authority delegated to me by the Secretary, I hereby extend for a period effective from August 1, 2003, and ending September 30, 2005, the existing Transmission Rate Schedules UGP–AS1, UGP–AS2, UGP–AS3, UGP–AS4, UGP–AS5, UGP–AS6, UGP–FTP1, UGP–NFPT1, and UGP–NT1 on an interim basis for transmission service for the P–SMBP–ED. The existing Transmission Rate Schedules UGP–AS1, UGP–AS2, UGP–AS3, UGP–AS4, UGP–AS5, UGP–AS6, UGP–FTP1, UGP–NFPT1, and UGP–NT1 for transmission service for the P–SMBP–ED, shall remain in effect pending FERC confirmation and approval of their extension or substitute

rates on a final basis through September 30, 2005.

Dated: June 4, 2003.

Kyle E. McSlarrow,

Deputy Secretary.

[FR Doc. 03–14950 Filed 6–12–03; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6640–9]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://epa.gov/compliance/nepa/.* Weekly receipt of Environmental Impact Statements, filed June 2, 2003, through June 6, 2003. Pursuant to 40 CFR 1506.9.

EIS No. 030258, FINAL SUPPLEMENT, AFS, MT, Keystone-Quartz Ecosystem Management Plan, Implementation, updated information on alternatives, Beaverhead-Deerlodge National Forest, Wise River Ranger District, Beaverhead County, MT, wait period ends: July 14, 2003, contact: Greg Clark (406) 683–3935.

EIS No. 030259, DRAFT EIS, FHW, NJ, Penns Neck Area Project, Phase I Archeological Survey, located in West Windsor and Princeton Townships, Mercer County, and Plainboro Township, Middlesex County, NJ, due: comment period ends: August 1, 2003, contact: Young Kim (609) 637–4233.

EIS No. 030260, DRAFT EIS, FHW, OH, Butler County, OH–63 Extension to U.S. 127 (Trenton area access), construction of a multi-lane limited access, divided highway on new alignment from east of OH–41/OH–63 interchange in the city of Monroe, Butler County, OH, comment period ends: July 28, 2003, contact: Larry Anderson (614) 469–6896.

EIS No. 030261, DRAFT EIS, NPS, MT, Glacier National Park Commercial Services Plan, General Management Plan, implementation, Glacier National Park, a portion of Waterton-Glacier International Peace Park, Flathead and Glacier Counties, MT, comment period ends: July 30, 2003, contact: Mary Riddle (406) 888–7898.

EIS No. 030262, FINAL EIS, NPS, MO, Wilson's Creek National Battlefield General Management Plan, implementation, Battle of Wilson's Creek commemoration and associated battlefield preservation, Greene and Christian Counties, MO, wait period ends: July 14, 2003, contact: Nick Chevance (402) 221–7286. This document is available on the Internet at: *http://www.nps.gov/glac/plans.htm.*

EIS No. 030263, DRAFT SUPPLEMENT, AFS, CA, NV, Sierra Nevada Forest Plan Amendment, new information on a range of alternatives for amending land and resource management plans, Modoc, Lasser, Plumas, Tahoe, Eldorado, Stanislaus, Sequoia, Sierra, Inyo and Humboldt-Toiyabe National Forests, and the Lake Tahoe Basin Management Unit, several counties, CA and NV, comment period ends: September 12, 2003, contact: Kathleen Morse (907) 562–8822.

EIS No. 030264, DRAFT EIS, AFS, CO, Upper Blue Stewardship Project, vegetation management, travel management, and dispersed camping sites designation, implementation, U.S. Army COE 404 permit, White River National Forest, Dillon Ranger District, Summit County, CO, comment period ends: July 28, 2003, contact: Peech Keller (970) 468–5400.

EIS No. 030265, DRAFT EIS, AFS, SD, Prairie Project Area, (Lower Rapid Creek Area) multiple resource management actions, implementation, Black Hills National Forest, Mystic Ranger District, Pennington County, ID, comment period ends: July 28, 2003, contact: Robert Thompson (605) 343–1567.

EIS No. 030266, DRAFT EIS, EPA, OSM, SFW, COE, WVEP, WV, KY, VA, TN, Programmatic EIS—Mountaintop Mining and Valley Fills program guidance, policies or regulations to minimize adverse environmental effects to waters of the U.S. and fish and wildlife resources, implementation, Appalachia, Appalachian study area, WV, KY, VA and TN, comment period ends: August 29, 2003, contacts: John Forren (EPA) (215) 814–2705, Katherine Trott (COE) 202–761–4617, Michael Robinson (DOI/OSM) 412–937–2882, Cindy Tibbott (DOI/FWS) 814–234–4090 and Russell Hunter (WV Dept. of EP) 304–759–0510. This document is available on the Internet at: *http://www.epa.gov/region3/mtntop/index.htm.* U.S. Army Corps of Engineers, U.S. Department of the Interior's Office of Surface Mining and Fish and Wildlife Service, U.S. Environmental Protection Agency and the West Virginia Department of Environmental Protection are joint lead agencies for the above project.

EIS No. 030267, Draft EIS, BLM, CA, West Mojave Plan, Habitat Conservation Plan and Federal Land Use Plan Amendment, implementation, California Desert Conservation Area, portions of San Bernardino, Kern, Inyo, and Los Angeles Cos., CA, comment period ends: September 12, 2003, contact: William Haigh (760) 252–6080.

EIS No. 030268, FINAL SUPPLEMENT, AFS, ID, Brown Creek Timber Sale Project, reviewing and updating information regarding the pileated woodpecker and soil impacts, Payette National Forest, New Meadow Ranger District, Adam County, ID, wait period ends: July 14, 2003, contact: Bob Giles (208) 634–0700. This document is available on the Internet at: *http://www.fs.fed.us/r4/payette/main.html.*

EIS No. 030269, FINAL SUPPLEMENT, AFS, ID, Little Weiser Landscape Vegetation Management Project, reviewing and updating information regarding the pileated woodpecker and soil impacts, Payette National Forest, Adam County, ID, wait period ends: July 14, 2003, contact: Bob Giles (208) 634–0700. This document is available on the Internet at: *http://www.fs.fed.us/r4/payette/main.html.*

EIS No. 030270, FINAL SUPPLEMENT, AFS, ID, Sloan-Kennally Timber Sale Project, reviewing and updating information regarding the pileated woodpecker and soil impacts, Payette National Forest, McCall Ranger District, Adam County, ID, wait period ends: July 14, 2003, contact: Bob Giles (208) 634–0700. This document is available on the Internet at: *http://www.fs.fed.us/r4/Payette/main.html.*

EIS No. 030271, FINAL SUPPLEMENT, AFS, ID, Middle Fork Weiser River Watershed Project, reviewing and updating information regarding the pileated woodpecker and soil impacts, Payette National Forest, Council Ranger District, Adam County, ID, wait period ends: July 14, 2003, contact: Curt Spalding (208) 634–0700. This document is available on the Internet at: *http://www.fs.fed.us/r4/Payette/main.html.*

EIS No. 030272, FINAL SUPPLEMENT, AFS, ID, Goose Creek Watershed Project, reviewing and updating information regarding the pileated woodpecker and soil impacts, Payette National Forest, New Meadows Ranger District, Adam County, ID, wait period ends: July 14, 2003, contact: Curt Spalding (208) 634–0700. This document is available on the Internet at: *http://www.fs.fed.us/r4/Payette/main.html.*

EIS No. 030273, DRAFT SUPPLEMENT, AFS, CA, OR, Port-Orford-Cedar Management Plan, implementation,

Coos Bay, Medford, and Roseburg Bureau of Land Management districts and the Siskiyou National Forest, Southwest Oregon, comment period ends: September 12, 2003, contact: Ken Denton (503) 326–2368. The U.S. Department of Agriculture, Forest Service and the U.S. Department of the Interior, Bureau of Land Management are joint lead agencies on the above project. This document is available on the Internet at *http://www.or.blm.gov/planning/Port-Orford-Cedar_SEIS/.*

Amended Notices

EIS No. 030154, Draft EIS, FHW, UT, Southern Corridor, extending from I–15 at reference post 2 in St. George to UT–9 near Hurricane, Endangered Species Act review section 7, right-of-way and U.S. Army Corps section 404 permits, St. George, Washington and Hurricane, Washington County, UT, comment period ends: July 11, 2003, contact: Gregory Punske (801)963–0182. Revision of FR notice published on 4/11/2003: CEQ comment period ending 5/30/2003 has been extended to 7/11/2003.

Dated: June 10, 2003.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 03–15011 Filed 6–12–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5541–1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in **FR** dated April 4, 2003 (68 FR 16511).

Draft EISs

ERP No. D–AFS–J65379–CO Rating EC2, Green Ridge Mountain Pine Beetle Analysis Project, Proposal to Reduce the Spread of Mountain Pine Beetle and Associated Tree Mortality, Medicine Bow-Routt National Forest & Thunder Basin National Grassland, Parks Ranger District, Jackson County, CO.

Summary: EPA expressed environmental concerns with harvest activities and road construction because of potential adverse impacts to aquatic resources and contiguous terrestrial habitat. The final EIS should include additional information regarding the use of adaptive management techniques, mitigation measures for soil compaction, habitat fragmentation and impacts from new roads.

ERP No. D–COE–F36164–IL Rating LO, Programmatic EIS—East St. Louis and Vicinity, Illinois Ecosystem Restoration and Flood Damage Reduction Project, Implementation, Madison and St. Clair Counties, IL.

Summary: EPA has no objections to this multi-objective, multi-agency ecological restoration and flood control project.

ERP No. D–COE–K36136–CA Rating EC2, Lower Cache Creek Flood Damage Reduction Project, Implementation, City of Woodland and Vicinity, Yolo County, CA.

Summary: EPA expressed environmental concerns regarding the project's lack of integration and consistency with the Sacramento/San Joaquin River Basins Comprehensive Study, impacts on sediment loading, air quality, water quality and transportation, as well as direct impacts from future operation and maintenance of existing levees, risks from reasonably foreseeable flooding and the costs of residual flood risk.

ERP No. D–COE–K39077–CA Rating LO, East Cliff Drive Bluff Protection and Parkway Project, Alternatives Evaluation for Coastal Bluff Erosion Protection, City of Santa Cruz, Santa Cruz County, CA.

Summary: EPA has a lack of objections to this project. EPA provided recommendations to ensure full disclosure of potential PM2.5 and ozone air quality effects, other potential mitigation measures for visual impacts and project costs.

ERP No. D–FRC–G03020–LA Rating EC2, Hackberry Liquified Natural Gas (LNG) Terminal and Natural Gas Pipeline Facilities, Construction and Operation, Cameron, Calcasieu, and Beauregard Parishes, LA

Summary: EPA expressed environmental concerns over potential impacts and requested that additional information be provided in the FEIS. Additional information requested included analyses of air quality impacts, availability of alternatives and cumulative impacts.

ERP No. D–FRC–K05228–CA Rating EC2, Pit 3, 4, 5 Hydroelectric Project, (FERC No. 233–081), Application for New License, Pit River, Pit River Basin, Shasta-Trinity National Forest and Lassen National Forest, Shasta County, CA.

Summary: EPA expressed environmental concerns regarding impacts to water quality and cultural resources. EPA also requested additional information on impacts of minimum flow on aquatic resources and measures for avoiding the use of herbicides to control noxious weeds.

ERP No. D–SFW–K91011–CA Rating EC2, Programmatic EIS—San Francisco Estuary Invasive Spartina Project, Spartina Control Program to Preserve and Restore Ecological Integrity of the Estuary's Intertidal Habitats, Alameda, Contra Costa, Marin, Napa, San Francisco and San Mateo, CA.

Summary: EPA expressed environmental concerns and recommended the PFEIS include additional evaluation and disclosure of Clean Water Act Section 404 requirements; mitigation measures for biological resources and visual effects; the program approach for managing dredged material reuse, outside seed sources of Spartina, peer reviews, and funding; cumulative impacts and Endangered Species Act section 7 consultation.

ERP No. D–TVA–E29001–TN Rating EC2, Rarity Pointe Commercial Recreation and Residential Development on Tellico Reservoir Project, Request for TVA's Land and Approval of Water Use Facilities, Tellico Reservoir, Loudon County, TN.

Summary: EPA expressed environmental concerns regarding water quality impacts for the Tellico Reservoir.

Final EISs

ERP No. F–COE–E30040–FL Lee County Beach Erosion Control Project, Shore Protection, Gasparilla and Estero Islands, Lee County, FL.

Summary: EPA has no objections to the proposed project.

ERP NO. F–FRC–D03004–00 Greenbrier Pipeline Project, (Docket Nos. CPO 2–396–000 and PF 01–1–00), Proposal to Construct and Operate a Natural Gas Pipeline and Associated Above Ground Facilities extending from east of Clendenin, Kanawha County, WV, VA and Granville County, NC.

Summary: EPA expressed environmental concerns regarding the proposed project, including wetlands losses. In light of the potential loss of wetlands, EPA also requested additional information regarding the proposed wetlands mitigation plan.

ERP No. F–FRC–L05225–OR North Umpqua Hydroelectric Project (FERC Project 1927), New License Issuance for

the existing 185.5-megawatt (MW) Facility, North Umpqua River, Douglas County, OR.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–FRC–L05228–ID Bear River Hydroelectric Project, Application for a New License for Three Existing Hydroelectric Projects: Soda (FERC No. 20–019), Grace-Cove (FERC No. 2401–007) and, Oneida (FERC No. 472–017) Bear River Basin, Caribou and Franklin Counties, ID.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–SFW–K64021–CA Natomas Basin Habitat Conservation Plan, Issuance of Incidental Take Permit and the Adoption of an Implementing Agreement or Agreements, Natomas Basin, Sacramento and Sutter Counties, CA.

Summary: EPA expressed continuing environmental concerns regarding the mitigation ratio and cumulative effects analysis. EPA recommended the ROD summarize the scientific basis for the 0.5:1 mitigation ratio, include a table demonstrating that the habitat values of habitats lost and conserved are equivalent, include a commitment to and list of all other mitigation requirements, and summarize cumulative impacts. EPA also recommended that the ROD address triggers for new effects analysis or revisions to the Natomas Basin HCP and ITPs, and possible suspension of applicable ITPs.

Dated: June 10, 2003.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 03–15012 Filed 6–12–03; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7512–6]

Public Notice of Final National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges From Federal Facility Small Municipal Separate Storm Sewer Systems (MS4s) in Colorado

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of issuance of NPDES general permit.

SUMMARY: Region VIII of EPA is hereby giving notice of its issuance of the NPDES general permit for storm water discharges from regulated small municipal separate storm sewer systems (MS4s). This general permit will apply to federal facilities in urbanized areas (as defined by the 2000 U.S. Census) in the State of Colorado that apply for coverage under this permit. The federal facilities that EPA currently knows to exist in urbanized areas in Colorado, all of which have applied for coverage under this permit, include: Fort Carson; the General Services Administration's Denver Federal Center; Peterson Air Force Base; the U.S. Air Force Academy; the U.S. Department of Commerce—National Institute of Standards and Technology, Boulder Campus; the U.S. Bureau of Prisons Federal Correctional Institution, Englewood; and the Veterans Affairs Medical Center, Denver. Additional federal facilities may need to apply for permit coverage at a later date if justified by subsequent Census data.

NPDES permit coverage is required for small MS4s in accordance with final EPA regulations for Phase II storm water discharges (64 FR 68722, December 8, 1999). Operators of Phase II-designated small MS4s (regulated small MS4s) are required to submit a Notice of Intent (NOI) to EPA Region VIII to be covered under the general permit. In accordance with the general permit, each regulated small MS4 operator must develop, implement, and enforce a program designed to reduce the discharge of pollutants from its MS4 to the maximum extent practicable (MEP) to protect water quality and to satisfy the appropriate water quality requirements of the Clean Water Act. The small MS4 program must include the following six minimum control measures: Public education and outreach; public involvement and participation; illicit discharge detection and elimination; construction site runoff control; post-construction runoff control; and pollution prevention/good housekeeping. The permit assumes the use of narrative, rather than numeric, effluent limitations achieved through the implementation of best management practices (BMPs). Operators must establish BMPs and measurable goals for each minimum measure in the permit application. However, applicants will have up to five years to fully develop and implement their storm water management programs.

State	Permit No.	Areas covered by the general permit
Colorado	COR042000	Federal Facilities in the State of Colorado, except those located in Indian Country

DATES: The general permit becomes effective on June 13, 2003, and will expire five years from that date. For appeal purposes, the 120 day time period for appeal to the U.S. Federal Courts will begin on June 13, 2003.

ADDRESSES: The general permit and other related documents in the administrative record are on file in the EPA Region VIII NPDES file room and may be inspected upon request any time between 8 a.m. and 4 p.m., Monday through Friday, excluding legal holidays. Requests to view these files in the Region VIII NPDES file room should be made to Greg Davis (8EPR–EP); U.S. EPA, Region VIII; 999 18th Street, Suite 300; Denver, CO 80202–2466, by phone at 303–312–6082, or by E-mail at *davis.gregory@epa.gov.* Copies of the general permit and fact sheet may also be downloaded from the EPA Region VIII Web site at *http://www.epa.gov/region8/water/stormwater/downloads.html.*

FOR FURTHER INFORMATION CONTACT: Questions regarding the specific permit requirements may be directed to Greg Davis, telephone (303) 312–6082, or E-mail at *davis.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA Region VIII proposed and solicited comments on the general permit at 68 FR 8902 (February 26, 2003). In addition, EPA Region VIII sent notices and copies of the draft general permit and fact sheet to the seven Federal Facilities designated for permit coverage. EPA did not receive any comments on the draft general permit. Region VIII is not issuing NPDES General Permits for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) located in Indian country. No MS4s in Indian country have been determined to require small MS4 permit coverage at this time.

Appeal of Permit: Any interested person may appeal the ''NPDES General

Permit for Storm Water Discharges from Federal Facility Small Municipal Separate Storm Sewer Systems (MS4s) in Colorado'' in the appropriate federal Circuit Court of Appeals in accordance with section 509(b)(1) of the Clean Water Act. This appeal must be filed within 120 days of the effective date of the permit. Persons affected by a general NPDES permit may not challenge the conditions of the general permit in EPA administrative proceedings. Instead, they may either challenge the general permit in court or apply for an individual permit (under 40 CFR 122.21 as authorized in 40 CFR 122.28) and then petition the EPA's Environmental Appeals Board (as provided in 40 CFR 124.19).

Paperwork Reduction Act: This action does not impose any new information collection burden. This general permit does not impose any information collection requirements beyond those required by EPA regulations (40 CFR 122.26, 122.28, 122.30–.37, 122.41, and 122.48). However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in these regulations under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2040–0211, EPA ICR number 1820.03. A copy of each OMB approved Information Collection Request (ICR) may be obtained from Susan Auby, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460, (202) 566–1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Executive Order 12866: Under Executive Order 12866 (58 FR 51735, October 4, 1993) an agency must determine whether its regulatory action is ''significant'' and therefore subject to OMB review and the requirements of Executive Order 12866. This Order defines ''significant regulatory action'' as one that is likely to result in a rule that may have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. OMB has waived review of NPDES general permits under the terms of Executive Order 12866.

Regulatory Flexibility Act (RFA): Issuance of an NPDES general permit is not subject to rulemaking requirements, including the requirement for a general notice of proposed rulemaking, under 5 U.S.C. Section 553 (Administrative Procedure Act) or any other law, and is thus not subject to the RFA requirement to prepare a regulatory flexibility analysis. The APA defines two broad, mutually exclusive categories of agency action—''rules'' and ''orders.'' Its definition of ''rule'' encompasses ''an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency * * *'' APA section 551(4). Its definition of ''order'' is residual: ''a final disposition * * * of an agency in a matter other than rule making but including licensing.'' APA section 551(6). The APA defines ''license'' to ''include * * * an agency permit * * *'' APA section 551(8). The APA thus categorizes a permit as an order, which by the APA's definition is not a rule. Section 553 of the APA establishes ''rule making'' requirements. The APA defines ''rule making'' as ''the agency process for formulating, amending, or repealing a rule.'' APA section 551(5). By its terms, then, section 553 applies only to ''rules'' and not also to ''orders,'' which include permits.

Unfunded Mandates Reform Act: Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires Federal agencies to assess the effects of their ''regulatory actions'' on State, local, and tribal governments and the private sector. UMRA uses the term ''regulatory actions'' to refer to regulations. (See, *e.g.*, UMRA section 201, ''Each agency shall * * * assess the effects of Federal regulatory actions * * * (other than to the extent that such regulations incorporate requirements specifically set forth in law).'') UMRA section 102 defines ''regulation'' by reference to 2 U.S.C. 658 which in turn defines ''regulation'' and ''rule'' by reference to section 601(2) of the RFA. That section of the RFA defines ''rule'' as ''any rule for which the agency publishes a notice of proposed rulemaking pursuant to section 553(b) of [the APA], or any other law. * * *'' As discussed in the RFA section of this notice, NPDES general permits are not ''rules'' under the APA and thus not subject to the APA requirement to publish a notice of proposed rulemaking. NPDES general permits are also not subject to such a requirement under the CWA. While EPA publishes a notice to solicit public comment on draft general permits, it does so pursuant to the CWA section 402(a) requirement to provide ''an opportunity for a hearing.'' Thus, NPDES general permits are not ''rules.''

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: May 23, 2003.

Stephen S. Tuber,

Assistant Regional Administrator, Office of Partnerships and Regulatory Assistance.

[FR Doc. 03–15009 Filed 6–12–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket 98–67; DA 03–1862]

Notice to State Telecommunications Relay Service (TRS) Programs and Interstate TRS Providers to Notify the Commission of Any Change of Contact Person Information and Substantive Changes in TRS service

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The purpose of this document is to notify state Telecommunications Relay Service (TRS) programs and interstate TRS Providers that they are required to submit to the Commission a contact person or office for TRS consumer information and complaints and to notify the Commission of any changes in this information. This

document also reminds state programs to notify the Commission of substantive changes in their TRS program.

DATES: Effective May 30, 2003.

FOR FURTHER INFORMATION CONTACT: Erica Myers, Consumer & Governmental Affairs Bureau, Disability Rights Office, (202) 418–2429 (voice), (202) 418–0464 (TTY), or e-mail *emyers@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Public Notice,* DA 03–1862, released May 30, 2003. State TRS programs and interstate TRS providers may file this information by using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Generally, only one copy of an electronic submission must be filed. When filing changes, please reference CC Docket No. 98–67. In completing the transmittal screen, parties should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic document by Internet e-mail. To get filing instructions for e-mail documents, parties should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

State TRS programs and interstate TRS providers who choose to submit by paper must submit an original and four copies of each filing addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW-B204, Washington, DC 20554. State TRS programs and interstate TRS providers are encouraged to submit an additional copy to Attn: Erica Myers, Federal Communications Commission, Consumer & Governmental Affairs Bureau, 445 12th Street, SW., Room 6-A432, Washington, DC 20554 or by e-mail at *emyers@fcc.gov.* States and interstate TRS providers should also submit electronic disk copies of their filing on a standard 3.5 inch diskette formatted in an IBM compatible format using Word 97 or compatible software. The diskette should be submitted in ''read-only'' mode and must be clearly labeled with the State or interstate TRS provider name, the filing date and captioned ''Change in Contact Information'' or ''Substantive Change in TRS Service'.

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

The filings will be 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. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 44512th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com.* Filings may also be viewed on the Consumer & Governmental Affairs Bureau, Disability Rights Office homepage at *http://www.fcc.gov/cgb/dro.*

To request materials in accessible formats for people with disabilities (braille, large print, electronic files, auto format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0531 (voice), 202–418–7365 (tty). This *Public Notice* can also be downloaded in Text and ASCII formats at *http://www.fcc.gov/cgb/dro.*

Synopsis

The purpose of this *Public Notice* is to remind state Telecommunications Relay Service (TRS) programs that pursuant to 47 CFR 64.604(c)(2)(i) they must submit to the Commission a contact person or office for TRS consumer information and complaints about intrastate service. The submission shall include the name and address of the state office that receives complaints, grievances, inquiries and suggestions; the voice, TTY, and fax numbers for that office; the e-mail address; and the physical address to which correspondence should be sent.

Similarly, interstate TRS providers are reminded that pursuant to 47 CFR 64.604(c)(2)(ii) they must submit to the Commission a contact person or office for TRS consumer information and complaints about the provider's service. The submission shall include the name and address of the office that receives complaints, grievances, inquiries and suggestions; the voice, TTY and fax numbers for that office; the e-mail address; and the physical address to which correspondence should be sent. The Commission must be notified each time there is a change in any of this required information.

The Commission also reminds state TRS programs that pursuant to 47 CFR 64.605 (f) state TRS programs must notify the Commission of any substantive changes in their TRS programs within 60 days of when they occur, and must certify that the state TRS program continues to meet Federal minimum standards after implementing the substantive change.

Federal Communications Commission.

Margaret M. Egler,

Deputy Chief, Consumer & Governmental Affairs Bureau.

[FR Doc. 03–14930 Filed 6–12–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 27, 2003.

A. Federal Reserve Bank of Minneapolis (Richard M. Todd, Vice President and Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Heidi Re Gesell, St. Paul, Minnesota, and Andrew John Gesell, Woodbury, Minnesota; a group acting in

concert, to acquire voting shares of Cherokee Bancshares, Inc., St. Paul, Minnesota, and thereby indirectly acquire Cherokee State Bank of St. Paul, St. Paul, Minnesota.

Board of Governors of the Federal Reserve System, June 9, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–14909 Filed 6–12–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 8, 2003.

A. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. AllNations Bancorporation, Inc., Shawnee, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Calumet, Calumet, Oklahoma.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. The Ginger Murchison Foundation, Athens, Texas; to become a bank holding company by acquiring 85.9 percent of the voting shares of The First National Bank of Athens, Athens, Texas.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Eggemeyer Advisory Corp, WJR Corp., Castle Creek Capital LLC, Castle Creek Capital Partners Fund I, LP, Castle Creek Capital Partners Fund IIa, LP, and Castle Creek Capital Partners Fund IIb, all of Rancho Santa Fe, California; to acquire directly and indirectly more than 25 percent of State National Bancshares, Inc., Lubbock, Texas, State National Bancshares of Delaware, Inc., Dover, Delaware, Independent Bankshares, Inc., Lubbock, Texas, Independent Financial Corporation, Dover, Delaware, and State National Bank, Lubbock, Texas.

In connection with these applications, the Applicants also have applied to acquire, directly and indirectly, ANB Financial Corporation, Arlington, Texas, ANB Delaware Financial Corporation, Dover, Delaware, and Arlington National Bank, Arlington, Texas.

Board of Governors of the Federal Reserve System, June 9, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–14908 Filed 6–12–03; 8:45 am]

BILLING CODE 6210–01–S

GENERAL ACCOUNTING OFFICE

Administrative Practice and Procedure; Bid Protest Regulations, Government Contracts

AGENCY: General Accounting Office.

ACTION: Notice.

SUMMARY: The Office of Management and Budget (OMB) recently announced major revisions to Circular A–76, which governs how Federal agencies determine whether to transfer performance of commercial activities from the public to the private sector, or vice versa. Performance of Commercial Activities, 68 FR 32134 (May 29, 2003). As relevant here, the revisions would make competitions involving in-house government competitors more similar to private/private competitions conducted under the Federal Acquisition Regulation (FAR) than has been the case with the competitive sourcing process. This notice solicits comments regarding two key legal questions, namely, whether the revisions made to the Circular affect the standing of an in-house entity to file a bid protest at the General Accounting Office (GAO), and who would have the representational capacity to file such a protest. This notice also solicits comments on other procedural issues raised by the Circular's revisions.

DATES: Comments should be submitted on or before July 16, 2003.

ADDRESSES: Comments concerning these matters may be submitted by e-mail at *A76Comments@gao.gov,* or by facsimile at 202–512–9749. Due to delivery delays, submission by regular mail is discouraged. Comments may be sent by Federal Express or United Parcel Service to: Michael R. Golden, Assistant General Counsel, General Accounting Office, 441 G Street, NW., Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Daniel I. Gordon (Managing Associate General Counsel), Michael R. Golden (Assistant General Counsel) or Linda S. Lebowitz (Senior Attorney); all three can be reached on 202–512–9732.

SUPPLEMENTARY INFORMATION: GAO's statutory authority to hear bid protests is found in the Competition in Contracting Act of 1984 (CICA), 31 U.S.C. 3551–56 (2000). CICA establishes the standard for standing to file a protest by stating that a protest may be filed by an ''interested party,'' which is defined in the statute as ''an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract.'' 31 U.S.C. 3551(2); *see also* Bid Protest Regulations, 4 CFR 21.0(a) (2003).

Under this definition, GAO hears bid protests filed by private-sector firms that have participated in A–76 cost comparisons, since a private firm that participated in an A–76 cost comparison is an actual offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract. Over the past three years, private firms have filed more than 50 protests at GAO challenging the conduct of A–76 competitions.

In contrast, GAO consistently has found that Federal employees and their unions cannot protest any aspect of the A–76 competition, because they do not meet CICA's definition of an ''interested party,'' so that, as a matter of law, GAO lacks authority to consider their protests. In *American Fed'n of Gov't Employees, AFL–CIO et al.*, B–282904.2, June 7, 2000, 2000 CPD ¶ 87 at 3–4, GAO identified a number of reasons for

this conclusion. It pointed out that neither individual Federal employees, nor the in-house plan (the ''Most Efficient Organization,'' or MEO), nor the employees' union representatives are offerors. In addition, GAO found that the MEO plan submitted in an A–76 competition is not an offer as defined under the FAR, because the MEO does not constitute a response to a solicitation (the solicitation currently applies only to private-sector competitors), nor would the MEO, if adopted, lead to formation of a contract, which is a mutually binding legal relationship to perform the services. Indeed, as GAO pointed out, no contract is awarded where the MEO prevails in the cost comparison. *See also American Fed'n of Gov't Employees,* B–223323, June 18, 1986, 86–1 CPD ¶ 572; *American Fed'n of Gov't Employees—Recon.,* B–219590.3, May 6, 1986, 86–1 CPD ¶ 436 (affirming an earlier dismissal).

The April 2002 report of the Commercial Activities Panel recommended that, in the context of improvements to the Federal government's process for making sourcing decisions, a way be found to level the playing field by allowing in-house entities to protest at GAO, as private-sector competitors are allowed to do. The report noted that, if a decision were made to permit the public-sector competitor to protest A–76 procurements, the question of who would have representational capacity to file such a protest would need to be carefully considered.

By making a number of changes from the predecessor Circular, the revised Circular may justify GAO reaching a different conclusion regarding the compliance of the in-house entity with CICA's definition of an ''interested party.'' Unlike under the predecessor Circular, the revised A–76 framework contemplates that the in-house government entity will submit an ''agency tender'' in response to the solicitation that will be evaluated along with private-sector proposals for purposes of ultimately deciding which competitor, public or private, should be selected to perform the work. The agency tender will be developed by an Agency Tender Official (ATO), defined as an agency official with decision-making authority who ''represents the agency tender during source selection.'' Revised Circular at D–2. If the agency tender prevails in the competition, the revised Circular provides that an ''MEO letter of obligation'' will be issued to an official responsible for performance of the MEO. Revised Circular at B–18. Under the revised Circular, this letter of obligation is required to incorporate appropriate portions of the solicitation and tender. *Id.* Under the revised Circular, the public sector source's failure to perform in accordance with its obligations can result in a termination action. Revised Circular at B–20.

The ATO is among those defined under the revised Circular as a ''directly interested party'' for purposes of filing an agency-level protest of the performance decision. Revised Circular at D–4. The revised Circular also defines a ''directly interested party'' to include a ''single individual appointed by a majority of directly affected employees as their agent.'' *Id.* In contrast to the ATO's defined role in the competition, the revised Circular does not define a role for this individual, other than in contesting agency actions taken in connection with an A–76 competition.

It is the cumulative legal impact of these changes that GAO is considering in assessing whether an in-house entity should have standing to file a bid protest at GAO when a competition is conducted under the revised Circular. Under the revised Circular, the agency tender appears to be treated more as an offer than under the predecessor Circular, and, if the source selection results in a decision to accept an agency tender, there will be a letter of obligation, which appears intended to bind the in-house entity, in at least a quasi-contractual way, to the terms of the solicitation and tender. In this regard, it may be viewed as relevant that GAO recently found that a public entity could be an interested party under CICA, even though, if successful in a competition, it would not be obtaining a contract. *Federal Prison Indus., Inc.,* B–290546, July 15, 2002, 2002 CPD ¶ 112. Further, as discussed in *Department of the Navy—Recon.,* B–286194.7, May 29, 2002, 2002 CPD ¶ 76 at 4, GAO reiterated that the in-house entity is essentially a competitor and that in preparing the in-house plan for performance, the MEO team members ''functioned * * * as competitors.''

GAO recognizes that there are various ways to resolve the legal question of interested-party status for in-house entities under the revised Circular. One way would be through case law. That is, GAO could simply wait until a protest is filed by an ATO or another individual or entity representing in-house interests; in response to a request for dismissal on standing grounds (or at its own initiative), GAO could ask the parties to address the matter in submissions and GAO could then issue a decision resolving the protester's interested-party status. Alternatively, GAO could amend its bid protest regulations to address the impact of the revised Circular, or it could issue a notice in the **Federal Register** announcing its legal conclusion. Another alternative would be for Congress to amend CICA's definition of an interested party for purposes of the filing of protests. Obviously, Congress could act even if GAO does not, and, indeed, legislative action would override action by GAO through its regulations or its case law. Finally, if it is found that GAO does not have authority under CICA to consider such protests, GAO could potentially consider protests by the ATO or another individual or entity representing in-house interests as ''non-statutory protests,'' if agencies agree in writing to have GAO decide the protests.

The purpose of this notice is to solicit comments from the public as to which action, if any, GAO should take. GAO would welcome comments from contracting agencies, other Federal agencies, individual Federal employees, Federal employee unions, contractors and other private-sector firms, attorneys (from all sectors), and others wishing to express a view. The most helpful views will be clear and concise, and will reflect familiarity with GAO's bid protest regulations, practice, and case law, as well as with the Circular A–76 framework. The key questions GAO is seeking views on are: (1) What method of deciding the matter GAO should use: case law (that is, wait for a protest presenting the question to be decided by GAO), amendment to the bid protest regulations, a notice in the **Federal Register** announcing GAO's legal conclusion, or no action by GAO; and (2) if GAO should act, what its decision should be—specifically, whether the in-house competitor should, or should not, be considered an interested party, and, if so, who should be viewed as having representational capacity to file a protest at GAO on behalf of the in-house competitor.

It would also be helpful to know the commenters' views on whether counsel for the ATO or the appointed individual would need to apply for admission (and what conditions might affect the likelihood of that counsel being admitted) to a protective order that GAO would issue (as it normally does) to limit access to nonpublic information regarding the procurement. *See* 4 CFR 21.4.

Finally, commenters may wish to address the impact, if any, on their view of the holding from the Court of Appeals for the Federal Circuit (consistent with GAO's view, as explained above) that Federal employees and their union do not qualify as interested parties to protest a decision pursuant to Circular

A–76. *American Fed'n of Gov't Employees, AFL–CIO et al.* v. *United States*, 258 F.3d 1294 (Fed. Cir. 2001).

Another revision to the Circular appears to affect the procedures GAO follows in handling protests of A–76 competitions. Under the predecessor Circular, parties affected by the cost comparison decision were able to challenge the results of the decision under an A–76 administrative appeal process. In light of the availability of this A–76 appeals process, GAO had a longstanding rule, based on comity and efficiency, that it would generally not hear a protest against the propriety of the cost comparison until the A–76 administrative appeals procedure provided by the agency had been exhausted. *See Intelcom Support Servs., Inc.,* B–234488, Feb. 17, 1989, 89–1 CPD ¶ 174; *Direct Delivery Sys.*, B–198361, May 16, 1980, 80–1 CPD ¶ 343. This is so, even though GAO has recognized that there is no statutory or regulatory requirement that an offeror exhaust available agency-level remedies before protesting to GAO. *See BAE Sys.*, B–287189, B–287189.2, May 14, 2001, 2001 CPD ¶ 86 at 17.

The revised Circular abolishes the administrative appeals process, and instead provides that a ''directly interested party'' may contest various aspects of a standard competition by filing an agency-level protest. Under GAO's Bid Protest Regulations, protesters are not required to file an agency-level protest before filing a protest at GAO. In light of the revised Circular's abolition of the special A–76 administrative appeal process, GAO solicits comments on whether it would be appropriate to continue to apply the exhaustion doctrine to A–76 protests or whether protesters should now be permitted to file their A–76 challenges directly with GAO.

Finally, the revised Circular states that ''no party may contest any aspect of a streamlined competition.'' Revised Circular at B–20. Under the revised Circular, a streamlined competition may entail issuance of a solicitation for proposals from the private sector, but that is not required. Revised Circular at B–4. GAO solicits comments on whether it would have a legal basis to consider a protest, from either the private or the public sector, regarding a streamlined competition.

Anthony H. Gamboa,

General Counsel.

[FR Doc. 03–14934 Filed 6–12–03; 8:45 am]

BILLING CODE 1610–02–P

GENERAL SERVICES ADMINISTRATION

Notice of Intent To Prepare a Supplemental Environmental Impact Statement

AGENCY: General Services Administration (GSA); National Capital Region.

ACTION: Notice.

SUMMARY: Pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), GSA Order PBS P1095.1F (Environmental considerations in decisionmaking, dated October 19, 1999), and the GSA Public Buildings Service NEPA Desk Guide, GSA plans to prepare a Supplemental Environmental Impact Statement (SEIS) for the proposed campus expansion and new eastern access road to support the consolidation of the Food and Drug Administration (FDA) on the Federal Research Center at White Oak in Silver Spring, Maryland.

FOR FURTHER INFORMATION CONTACT: Harry Debes, Project Executive, General Services Administration, National Capital Region, at (202) 260–9583. Please also call this number if special assistance is needed to attend and participate in the scoping meeting.

SUPPLEMENTARY INFORMATION: The notice of intent is as follows:

Notice of Intent To Prepare a Supplemental Environmental Impact Statement for the Proposed Campus Expansion and New Eastern Access Road to Support the Consolidation of the Food and Drug Administration at the Federal Research Center at White Oak in Silver Spring, Maryland

The General Services Administration intends to prepare a Supplemental Environmental Impact Statement (SEIS) to analyze the potential impacts resulting from the proposed campus expansion and new eastern access road to support the FDA consolidation at the Federal Research Center (FRC) at White Oak in Silver Spring, Maryland.

This SEIS is an update and supplement to the analyses presented in the *U.S. Food and Drug Administration Consolidation, Montgomery County, Final Environmental Impact Statement*, April 1997 (*1997 Final EIS*).

Proposed Campus Expansion

In 1997, GSA completed an environmental impact statement that analyzed the impacts from the consolidation of 5,974 FDA employees at the FRC. In July 2002, new legislation was enacted that expanded FDA's mandate to support the Prescription Drug User Fee Act (PDUFA) and the Medical Device User Fee and Modernization Act (MDUFMA). The new legislation and the growth of other programs will likely result in an increase of employees at the FRC from 5,947 (studied in the *1997 Final EIS*) to 7,720.

Eastern Access Road

In the environmental analysis performed in 1996–1997 for the *1997 Final EIS*, GSA considered traffic impacts and patterns into the FDA facility. It was determined in the Draft EIS, that a new access point was needed from Cherry Hill Road through the eastern portion of the FRC to relieve traffic on New Hampshire Avenue. In order to maintain this access and provide a secure site for the Air Force (located on the northern edge of the FRC), two optional road alignments were studied for the crossing of Paint Branch Creek within the FRC. The road alignment within the FRC was to be selected based on the structural integrity of the existing bridge on Dahlgren Road and on the costs associated with each of the alternatives.

After the release of the Draft EIS, the security requirements of the Air Force changed, and an initial structural investigation found the existing bridge to be sound pending some repair work. Therefore, the two alternative alignments were dropped from the *1997 Final EIS.* The *1997 Final EIS* still proposed a new entrance at Cherry Hill Road because the existing entrance at Dahlgren Road is too close to the Cherry Hill Road/Powder Mill Road intersection to operate safely and efficiently.

In February 2001, the Federal Highway Administration (FHWA—Virginia office), as GSA's agent, prepared a bridge inspection report on Dahlgren Road crossing Paint Branch Creek. In its report, FHWA concluded that ''this structure is in poor condition overall, and should be replaced in the near future.''

Due to the deteriorating conditions of the existing bridge on Dahlgren Road and the increased traffic demands anticipated from the FDA consolidation, GSA has decided to reevaluate the construction of a new access point to and through the eastern portion of the FRC.

Alternatives Under Consideration

GSA will analyze the proposed action and no action alternatives for the proposed expansion of the FDA headquarters to include PDUFA and

MDUFMA and other expanded programs. GSA will also analyze a range of alternatives for the eastern road access to and through the site including the no action alternative.

As part of the SEIS, GSA will study the impacts of each alternative on the human environment.

Scoping Process

In accordance with NEPA, a scoping process will be conducted to aid in determining the alternatives to be considered and the scope of issues to be addressed, as well as for identifying the significant issues related to the proposed expansion and new road construction to and through the FRC. Scoping will be accomplished through a public scoping meeting, direct mail correspondence to potentially interested persons, agencies, and organizations, and meetings with agencies having an interest in the FRC. It is important that Federal, regional, State, and local agencies, and interested individuals and groups take this opportunity to identify environmental concerns that should be addressed during the preparation of the Draft SEIS.

Public Scoping Meeting

The public scoping meeting will be held on Thursday, June 26, 2003, from 6:30 p.m. to 8:30 p.m. at the CHI Center (Multipurpose Room) located at 10501 New Hampshire Avenue, Silver Spring, Maryland. The meeting will be an informal open house, where visitors may come, receive information, and give comments. GSA will publish notices in the Washington Post and local newspapers announcing this meeting approximately two weeks prior to the meeting. GSA will prepare a scoping report, available to the public, that will summarize the comments received and facilitate their incorporation into the SEIS process.

Written Comments: Agencies and the public are encouraged to provide written comments on the scoping issues in addition to or in lieu of giving their comments at the public scoping meeting. Written comments regarding the environmental analysis for the proposed expansion and construction of a new eastern access road to and through the FRC must be postmarked no later than July 28, 2003, and sent to the following address: General Services Administration, Attention: Harry Debes, Project Executive, 7th and D Streets, SW., Room 2120, Washington, DC 20407. (202) 708–4730 Fax. *Harry.Debes@gsa.gov.*

Dated: June 6, 2003.

Thomas E. James,

Director, Portfolio Management Division.

[FR Doc. 03–15078 Filed 6–12–03; 8:45 am]

BILLING CODE 6820–23–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

Name: National committee on Vital and Health Statistics (NCVHS).

Time and date: June 24, 2003, 9 a.m.–2 p.m.; June 25, 2003, 10 a.m.–12:30 p.m.

Place: Hubert H. Humphrey Building, 200 Independence Avenue SW., Room 705A, Washington, DC 20201.

Status: Open.

Purpose: At this meeting the Committee will hear presentations and hold discussions on several health data policy topics. On the morning of the first day the full Committee will hear updates and status reports from the Department on several topics including an update on HHS Data Council activities, the implementation of the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) as well as on implementation of the HIPAA Privacy Rule. A report on the Consolidated Health Informatics Initiative is also planned. In the afternoon there will be reports from Subcommittees on selected activities. Subcommittee breakout sessions are scheduled for late in the afternoon of the first day and prior to the full Committee meeting on the second day. Agendas for these breakout sessions will be posted on the NCVHS Web site (URL below) when available. On the second day the Committee will hear presentations on the HHS Gateway to Data and Statistics on the web, and on results of a Gallup Survey on Federal Advisory Committee, followed by reports from Subcommittees. Finally, the agendas for future NCVHS meetings will be discussed.

For Further Information Contact: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, 3311 Toledo Road, Room 2402, Hyattsville, Maryland 20782, telephone (301) 458–4245. Information also is available on the NCVHS home page of the HHS Web site: *http//www.ncvhs.hhs.gov/,* where further information including an agenda will be posted when available.

Dated: June 6, 2003.

James Scanlon,

Acting Director, Office of Science and Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 03–14943 Filed 6–12–03; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Solicitation of Public Review and Comment on Research Protocol: Characterization of Mucus and Mucins in Bronchoalveolar Lavage Fluids From Infants With Cystic Fibrosis

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office for Human Research Protections.

ACTION: Notice.

SUMMARY: The Office for Human Research Protections (OHRP), Office of Public Health and Science, Department of Health and Human Services (HHS) is soliciting public review and comment on a proposed research protocol entitled ''Characterization of Mucus and Mucins in Bronchoalveolar Lavage Fluids from Infants with Cystic Fibrosis.'' The proposed research would be supported by a grant awarded by the National Heart, Lung, and Blood Institute, National Institutes of Health. Public review and comment are solicited regarding the proposed research protocol pursuant to the requirements of HHS regulations at 45 CFR 46.407.

DATES: To be considered, written or electronic comments on the proposed research must be received on or before 4:30 p.m. July 28, 2003.

ADDRESSES: Submit written comments to: Ms. Kelley Booher, Division of Policy, Planning, and Special Projects, Office for Human Research Protections, 1101 Wootton Parkway, Suite 200, The Tower Building, Rockville, MD 20852, telephone number (301) 402–5942 (not a toll-free number). Comments also may be sent via facsimile at (301) 402–0527 or by email to: *407panel02@osophs.dhhs.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Leslie K. Ball, Office for Human Research Protections, The Tower Building, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852; telephone (301) 496–7005; fax (301) 402–0527; email *LBall@osophs.dhhs.gov.*

SUPPLEMENTARY INFORMATION: All studies conducted or supported by HHS which are not otherwise exempt and which propose to involve children as subjects require institutional review

board (IRB) review in accordance with the provisions of HHS regulations for the protection of human subjects at 45 CFR part 46, subpart D. Pursuant to HHS regulations at 45 CFR 46.407, if an IRB reviewing a protocol to be conducted or supported by HHS does not believe that the proposed research involving children as subjects meets the requirements of HHS regulations at 45 CFR 46.404, 46.405, or 46.406, the research may proceed only if the following conditions are met: (a) The IRB finds that the research presents a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of children; and (b) the Secretary, after consultation with a panel of experts in pertinent disciplines (for example: science, medicine, education, ethics, law) and following opportunity for public review and comment, determines either: (1) That the research in fact satisfies the conditions of 45 CFR 46.404, 46.405, or 46.406, or (2) that the following conditions are met: (i) The research presents a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of children; (ii) the research will be conducted in accordance with sound ethical principles; and (iii) adequate provisions are made for soliciting the assent of children and the permission of their parents or guardians, as set forth in 45 CFR 46.408.

HHS received a request from the University of North Carolina at Chapel Hill's (UNC) Office of Human Research Studies and Dr. Terry Noah pursuant to the provisions of HHS regulations at 45 CFR 46.407. The proposed research protocol would be funded by the National Heart, Lung, and Blood Institute, National Institutes of Health (NIH), under grant number P50 HL 60280 (SCOR in Pathogenesis of Cystic Fibrosis), principal investigator, Dr. Richard Boucher, and has been adapted from a sub-study contained within this grant, entitled, ''Project IV: Airway Surface Liquid Composition of Humans In Vivo.'' Dr. Terry Noah, the principal investigator of the adapted sub-study, proposes a longitudinal study of the changes in bronchoalveolar lavage fluid (BALF) of infants diagnosed with cystic fibrosis in the neonatal period. The proposed study would enroll infants with a clinical diagnosis of cystic fibrosis in the neonatal period and would obtain BALF from these infants via flexible fiberoptic bronchoscopy at 3 time points: (1) After diagnosis, within the first 6 weeks after birth; (2) at 6 months of age; and (3) at 12 months of age. The goals of the proposed study are to: (a) Quantify mucin in BALF and compare quantities before infection vs. after infection onset in cystic fibrosis; (b) correlate mucin quantity with measures of infection (quantitative bacteriology) and inflammation (cell numbers, neutrophil products, and inflammatory cytokines); and (c) isolate mucus plugs and characterize their histology before and after infection, in order to more accurately describe early relationships among mucus obstruction, infection and inflammation.

After reviewing this research proposal UNC's Committee on the Protection of the Rights of Human Subjects (CPRHS), which serves as UNC's IRB, determined that this research could not be approved under 45 CFR 46.404, 46.405, or 46.406, but was suitable for review under 45 CFR 46.407. The UNC CPRHS found that the research represented more than a minor increase over minimal risk and did not appear to offer the prospect of direct benefit to subjects, but found that the research presented a reasonable opportunity to further the understanding, prevention or alleviation of a serious problem affecting the health or welfare of children.

Experts in relevant disciplines have reviewed this protocol and each have provided recommendations to the Secretary of HHS. Public review and comment are hereby solicited pursuant to the requirements of 45 CFR 46.407. The Secretary of HHS will consider the experts' recommendations and the public comments in making a final determination regarding whether or not HHS should support this research.

In particular, comments are solicited on the following questions: (1) What are the types and degrees of risk that this research presents to the subjects; (2) what are the potential benefits, if any, to the subjects and to children in general; (3) does the research present a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of children; (4) if conducted as proposed in the above-cited protocol, would the research be conducted in accordance with sound ethical principles; and (5) have adequate provisions been made for soliciting the assent of children and the permission of their parents or guardians? In formulating a response to question (4), commenters may wish to consider whether the proposed protocol satisfies all the requirements under HHS regulations at 45 CFR 46.111 (criteria for IRB approval of research).

All written comments concerning this matter should be submitted to Ms. Kelley Booher, Division of Policy, Planning, and Special Projects, Office for Human Research Protections, 1101 Wootton Parkway, Suite 200, The Tower Building, Rockville, MD 20852, telephone number (301) 402–5942 (not a toll-free number). Comments also may be sent via facsimile at (301) 402–2071 or by email to: *407panel02@osophs.dhhs.gov.* Materials available for review on the OHRP web page (available at: *http://ohrp.osophs.dhhs.gov/panels/407–02pnl/pindex.htm*) include: Correspondence from the principal investigator and UNC referring the proposed research protocol to the Secretary of HHS for consideration under 45 CFR 46.407; correspondence between the UNC CPRHS and the principal investigator; the UNC CPRHS deliberations on the proposed research; correspondence between OHRP and UNC; relevant excerpts of the NIH grant application; the parental permission document; review of proposed research by the Cystic Fibrosis Foundation's Data and Safety Monitoring Board; UNC's bronchoscopy complication data; and reports from each of experts pursuant to 45 CFR 46.407. A paper copy of the information referenced here is available upon request.

Dated: June 5, 2003.

Cristina V. Beato,

Principal Deputy Assistant Secretary for Health.

[FR Doc. 03–14941 Filed 6–12–03; 8:45 am]

BILLING CODE 4150–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Solicitation of Public Review and Comment on Research Protocol: Sleep Mechanism in Children: Role of Metabolism

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office for Human Research Protections.

ACTION: Notice.

SUMMARY: The Office for Human Research Protections (OHRP), Office of Public Health and Science, Department of Health and Human Services (HHS) is soliciting public review and comment on a proposed research protocol entitled ''Sleep Mechanisms in Children: Role of Metabolism.'' The proposed research would be supported by a grant awarded by the National Heart, Lung, and Blood Institute, National Institutes of Health. Public review and comment are

solicited regarding the proposed research protocol pursuant to the requirements of HHS regulations at 45 CFR 46.407.

DATES: To be considered, written or electronic comments on the proposed research must be received on or before 4:30 p.m. July 28, 2003.

ADDRESSES: Submit written comments to: Ms. Kelley Booher, Division of Policy, Planning, and Special Projects, Office for Human Research Protections, 1101 Wootton Parkway, Suite 200, The Tower Building, Rockville, MD 20852, telephone number (301) 402–5942 (not a toll-free number). Comments also may be sent via facsimile at (301) 402–0527 or by email to: *407panel03@osophs.dhhs.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Leslie K. Ball, Office for Human Research Protections, The Tower Building, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852; telephone (301) 496–7005; fax (301) 402–0527; email *LBall@osophs.dhhs.gov.*

SUPPLEMENTARY INFORMATION: All studies conducted or supported by HHS which are not otherwise exempt and which propose to involve children as subjects require institutional review board (IRB) review in accordance with the provisions of HHS regulations for the protection of human subjects at 45 CFR part 46, subpart D. Pursuant to HHS regulations at 45 CFR 46.407, if an IRB reviewing a protocol to be conducted or supported by HHS does not believe that the proposed research involving children as subjects meets the requirements of HHS regulations at 45 CFR 46.404, 46.405, or 46.406, the research may proceed only if the following conditions are met: (a) The IRB finds that the research presents a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of children; and (b) the Secretary, after consultation with a panel of experts in pertinent disciplines (for example: science, medicine, education, ethics, law) and following opportunity for public review and comment, determines either: (1) That the research in fact satisfies the conditions of 45 CFR 46.404, 46.405, or 46.406, or (2) that the following conditions are met: (i) The research presents a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of children; (ii) the research will be conducted in accordance with sound ethical principles; and (iii) adequate provisions are made for soliciting the assent of children and the permission of their parents or guardians, as set forth in 45 CFR 46.408.

HHS received a request from the Albert Einstein College of Medicine's Committee on Clinical Investigations (the Albert Einstein CCI, which serves as Albert Einstein's IRB) pursuant to 45 CFR 46.407. The principal investigator, Dr. Gabriel Haddad, proposes to measure glycogen, glutamate turnover rate, and glutamate-glutamine cycling in wakefulness and sleep in adolescent children ages 13 to 17 years. The investigator also proposes to study a subset of children in the same manner following sleep deprivation. The study would involve three visits to the Children's Hospital at Montefiore Medical Center. Measurements will be made using NMR spectroscopy following intravenous infusion of ^{13}C-acetate and ^{13}C-glucose. The long term aims of the study are to better understand (a) sleep; and (b) the diseases afflicting children and adults that impact on their sleep; and (c) sleep-related diseases that impact on neurocognitive, cardiovascular, behavioral, and other functions. This study would be funded by the National Heart, Lung, and Blood Institute, National Institutes of Health (NIH), under grant number HL 070919.

After reviewing this research proposal, the Albert Einstein CCI determined that this research could not be approved under 45 CFR 46.404, 46.405, or 46.406 but was suitable for review under 45 CFR 46.407. The Albert Einstein CCI found that the research presented more than minimal risk and did not offer the prospect of direct benefit to subjects, but found that the research presented a reasonable opportunity to further the understanding, prevention or alleviation of a serious problem affecting the health or welfare of children.

Experts in relevant disciplines have reviewed this protocol and each have provided recommendations to the Secretary of HHS. Public review and comment are hereby solicited pursuant to the requirements of 45 CFR 46.407. The Secretary will consider the experts' recommendations and the public comments in making a final determination regarding whether HHS may support this research.

In particular, comments are solicited on the following questions: (1) What are the types and degrees of risk that this research presents to the subjects; (2) what are the potential benefits, if any, to the subjects and to children in general; (3) does the research present a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of children; (4) if conducted as proposed in the above-cited protocol, would the research be conducted in accordance with sound ethical principles; and (5) have adequate provisions been made for soliciting the assent of children and the permission of their parents or guardians? In formulating a response to question (4), commenters may wish to consider whether the proposed protocol satisfies all the requirements under HHS regulations at 45 CFR 46.111 (criteria for IRB approval of research).

All written comments concerning this matter should be submitted to Ms. Kelley Booher, Division of Policy, Planning, and Special Projects, Office for Human Research Protections, 1101 Wootton Parkway, Suite 200, The Tower Building, Rockville, MD 20852, telephone number (301) 402–5942 (not a toll-free number). Comments also may be sent via facsimile at (301) 402–2071 or by email to: *407panel03@osophs.dhhs.gov.*

Materials available for review on the OHRP web page (available at: *http://ohrp.osophs.dhhs.gov/panels/407–03pnl/pindex.htm*) include: correspondence from the research institution referring the proposed protocol to the Secretary of HHS for consideration under 45 CFR 46.407; the Albert Einstein CCI protocol application; the Albert Einstein CCI deliberations on the proposed research; the parental permission and assent forms; relevant excerpts of the NIH grant application; and reports from each of the experts pursuant to 45 CFR 46.407. A paper copy of the information referenced here is available upon request.

Dated: June 5, 2003.

Cristina V. Beato,

Principal Deputy Assistant Secretary for Health.

[FR Doc. 03–14942 Filed 6–12–03; 8:45 am]

BILLING CODE 4150–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–03–76]

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: Youth Risk Behavior Survey (YRBS) Methodological Study—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention, (CDC). CDC intends to conduct a methodological study in the Spring of 2004 to assess the effects of setting and mode of survey administration on the reporting of health-risk behaviors among adolescents, and thereby, to provide methodological guidance for future surveys, especially surveys of adolescents. In 2000, the Office of the Assistant Secretary for Planning and Evaluation (ASPE) commissioned five expert papers written on the topic ''Examining Substance Abuse Data Collection Methodologies.'' The papers focused on the YRBS, the National Survey on Drug Use and Health (NSDUH, formerly the National Household Survey on Drug Abuse, or NHSDA), and Monitoring the Future (MTF). A consensus among the authors was that disparate results across the studies are most likely a product of methodological differences across the surveys. This YRBS Methodological Study is designed to measure the extent to which the prevalence of health-risk behaviors among students varies by whether the survey is administered in schools vs. students' homes (setting), and by whether the survey is administered using paper-and-pencil questionnaire booklets vs. computer-assisted self-interviewing (mode). Approximately 5,376 high school students will be given questionnaires in one of the four setting/mode combinations. Elucidation of the impact of these factors on prevalence will assist in reducing response effects and improving the quality of the YRBS data. There are not costs to respondents.

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
High school students	5,376	1	45/60	4,032
School administrators	104	1	45/60	78
Total				4,110

Dated: June 9, 2003.

Thomas A. Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–14911 Filed 6–12–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–03–77]

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: Hemophilia Treatment Center Laboratory Survey—New—National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention (CDC). Up to two million women in the United States may have an inherited bleeding disorder and not know it. Many women learn to live with the problems their bleeding causes, such as heavy periods, and not realize that they could have a bleeding disorder. Other women may have more serious bleeding problems such as hemorrhages after childbirth or surgery, and some have hysterectomies to end their heavy periods. With proper diagnosis, women with bleeding disorders could avoid these complications and surgeries. Management of bleeding in these women can decrease heavy periods and can improve quality of life.

The most common bleeding disorder is called Von Willebrand disease (VWD). VWD is caused by a deficiency or defect in the body's ability to make a protein, von Willebrand factor, which helps blood clot. The symptoms of VWD can range in severity; however, 90 percent of people who have this disease have the mild form. VWD occurs in men and women equally, but women are more likely to notice the symptoms of VWD due to heavy or abnormal bleeding during their menstrual periods and after childbirth. There are many gynecological and physical causes for heavy periods, such as endometriosis, thyroid problems and cancer; however,

the cause is not identified in half the cases. A CDC-Emory University survey found that gynecologists rarely considered bleeding disorders as a cause of heavy menstrual bleeding. However, recent research from Europe and CDC has shown that 15–20 percent of women with heavy periods have inherited bleeding disorders. Women with VWD interviewed by CDC reported an average of 16 years between the onset of bleeding symptoms and diagnosis of a bleeding disorder. CDC and the National Hemophilia Foundation have been working to encourage gynecologists to consider bleeding disorders in women who have menorrhagia. As a result, the American College of Obstetricians and Gynecologists has recently recommended screening for VWD in these women.

An important part of increasing the awareness among physicians and their patients with heavy periods who may have an underlying bleeding disorder is referral for appropriate diagnosis. Federally funded Hemophilia Treatment Centers (HTCs) are thought to be the best source for appropriate laboratory diagnosis, however, the following concerns have been raised: (1) Anecdotal reports from HTC providers describe reduced capacity of in-house laboratory support and access to specialty coagulation laboratory tests that are essential for appropriate diagnosis of bleeding disorders; (2) A CDC, Public Health Practice Program Office (PHPPO), study demonstrated reduced capacity to perform specific coagulation tests through their survey of hospital laboratories, but it is impossible to know if HTCs have higher capacity than the hospitals studied; (3) HTCs report that changes in third party payer policies, especially health maintenance organizations, are dictating the source of laboratory testing requiring shipment of laboratory specimens to sites away from the hospital that reduce the quality of the sample and effect the reliability of the results. It is important to assess the HTCs and determine their capabilities and barriers to delivering comprehensive care to patients with bleeding disorders.

The proposed study will involve the 135 federally funded HTCs. The study participants are composed of medical directors, adult hematologists, pediatric hematologists, and coagulation laboratory technicians. A survey will be distributed to the above personnel to ascertain their perceptions of lab capabilities and procedures. There will be no cost to respondents.

Respondents	Number of respondents	Number responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
HTC medical directors & coagulation technicians	325	1	20/60	108
Total	.....	.....	.....	108

Dated: June 9, 2003.

Thomas A. Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–14912 Filed 6–12–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Cooperative Agreement for Development of the National Violent Death Reporting System, Program Announcement #03038

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 meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Cooperative Agreement for Development of the National Violent Death Reporting System, Program Announcement #03038.

Times and Dates: 8:30 a.m.–8:50 a.m., June 30, 2003. (Open); 8:50 a.m.–4 p.m., June 30, 2003. (Closed)

Place: The Westin Atlanta North at Perimeter, 7 Concourse Parkway, Atlanta, GA 30328, Telephone 770.395.3900.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement #03038.

For Further Information Contact: James Belloni, Deputy Director, Office of Program Management and Operations, National Center For Injury Prevention and Control, CDC, 4770 Buford Highway NE., MS–K–62, Atlanta, GA 30341, Telephone 770.488.4538.

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 the Agency for Toxic Substances and Disease Registry.

Dated: June 5, 2003.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 03–14927 Filed 6–12–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Science and Program Review Subcommittee (SPRS) and the Advisory Committee for Injury Prevention and Control (ACIPC): Meetings

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 Subcommittee and Committee meetings.

Name: Science and Program Review Subcommittee to ACIPC.

Time and Dates: 6:30 p.m.–9 p.m., June 22, 2003; 9 a.m.–12 p.m., June 23, 2003.

Place: The Westin Atlanta Airport, 4736 Best Road, Atlanta, Georgia 30337, telephone (404) 762–7676.

Status: Open: 6:30 p.m.–7 p.m., June 22, 2003.

Closed: 7 p.m.–9 p.m., June 22, through 12 p.m., June 23, 2003.

Purpose: The Subcommittee provides advice on the needs, structure, progress, and performance of the National Center for Injury Prevention and Control (NCIPC) programs. They also provide second-level scientific and programmatic review for applications for research grants, cooperative agreements, and training grants related to injury control and violence prevention, and recommends

approval of projects that merit further consideration for funding support. The Subcommittee advises on priorities for research to be supported by contracts, grants, and cooperative agreements, and provides concept review of program proposals and announcements.

Matters To Be Discussed: Agenda items include updates on research and review activities, the role of secondary reviewers, and date for secondary review of Special Emphasis Panels (SEPs). Beginning at 7 p.m., June 22, through 12 p.m., June 23, 2003, the Subcommittee will begin the secondary review which includes discussion and evaluation of results of the Injury Research Grant Review Committee's (IRGRC) review of a new application received from the University of Pittsburgh Injury Control Research Center (Announcement #03008); and R49s (individual research grant applications received and reviewed by IRGRC in response to Program Announcements #03023, Acute Care, Rehabilitation and Disability Prevention Research; #03024, Violence-Related Injury Prevention Research (Intimate Partner Violence and Sexual Violence); #03027, New Investigator Training Awards for Unintentional Injury, Violence Related Injury, Biomechanics, Acute Care, Disability, and Rehabilitation-Related Research; #03028, Traumatic Injury Biomechanics Prevention Research; #03033, Dissemination Research of Effective Interventions; #03036, Dissertation Awards for Doctoral Candidates for Violence-Related Injury Prevention Research in Minority Communities; #03035, National Academic Centers of Excellence on Youth Violence Prevention; and secondary review, discussion, and evaluation of Small Business Innovation Research applications reviewed by the National Institutes of Health. This portion of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Name: Advisory Committee for Injury Prevention and Control.

Time and Date: 1 p.m.–2:30 p.m., June 23, 2003.

Place: The Westin Atlanta Airport, 4736 Best Road, Atlanta, Georgia 30337, telephone (404) 762–7676.

Status: Open: 1 p.m.–1:45 p.m., June 23, 2003.

Closed: 1:45 p.m.–2:30 p.m., June 23, 2003.

Purpose: The Committee advises and makes recommendations to the Secretary, Health and Human Services, the Director, CDC, and the Director, NCIPC, regarding feasible goals for the prevention and control of injuries. The Committee makes recommendations regarding policies, strategies, objectives, and priorities, and reviews progress toward injury prevention and control. The Committee provides advice on the appropriate balance of intramural and extramural research, and provides guidance on the needs, structure, progress and performance of intramural programs, and on extramural scientific program matters. The Committee provides second-level scientific and programmatic review for applications for research grants, cooperative agreements, and training grants related to injury control and violence prevention, and recommends approval of projects that merit further consideration for funding support. The Committee also recommends areas of research to be supported by contracts and cooperative agreements, and provides concept review of program proposals and announcements.

Matters To Be Discussed: Agenda items include an update on Center activities from the Deputy Director, NCIPC. Beginning at 1:45 p.m., June 23, 2003, through 2:30 p.m., the Committee will vote on results of the secondary review. This portion of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463. Agenda items are subject to change as priorities dictate.

Note: Due to program oversight, this **Federal Register** Notice is being published less than 15 days before the date of the meeting.

Contact Person for More Information: Ms. Louise Galaska, Executive Secretary, ACIPC, NCIPC, CDC, 4770 Buford Highway, NE., M/S K02, Atlanta, Georgia 30341–3724, telephone 770/488–4694.

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 the Agency for Toxic Substances and Disease Registry.

Dated: June 6, 2003.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–14925 Filed 6–12–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Safety and Occupational Health Study Section (SOHSS), National Institute for Occupational Safety and Health (NIOSH)

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 committee meeting.

Name: Safety and Occupational Health Study Section (SOHSS), National Institute for Occupational Safety and Health (NIOSH).

Times and Dates: 8 a.m.–9 a.m., June 24, 2003; 9:10 a.m.–5:30 p.m., June 24, 2003; 8 a.m.–5 p.m., June 25, 2003.

Place: The Embassy Suites, 1900 Diagonal Road, Alexandria, Virginia 22314, telephone (703) 684–5900.

Status: Open 8 a.m.–9 a.m., June 24, 2003.

Closed 9:10 a.m.–5:30 p.m., June 24, 2003; 8 a.m.–5 p.m., June 25, 2003.

Purpose: The Safety and Occupational Health Study Section will review, discuss, and evaluate grant application(s) received in response to NIOSH's standard grants review and funding cycles pertaining to research issues in occupational safety and health, and allied areas. It is the intent of NIOSH to support broad-based research endeavors in keeping with their program goals. This will lead to improved understanding and appreciation for the magnitude of the aggregate health burden associated with occupational injuries and illnesses, as well as to support more focused research projects, which will lead to improvements in the delivery of occupational safety and health services and the prevention of work-related injury and illness. It is anticipated that the research funded will promote these program goals.

Matters To Be Discussed: The meeting will convene in open session from 8–9 a.m. on June 24, 2003, to address matters related to the conduct of SOHSS business. The remainder of the meeting will proceed in closed session. The purpose of the closed sessions is for SOHSS to consider safety and occupational health-related grant applications. These portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6) title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, Centers for Disease Control and Prevention, pursuant to Public Law 92–463.

Agenda items are subject to change as priorities dictate.

Note: Due to program oversight, this **Federal Register** Notice is being published less than 15 days before the date of the meeting.

Contact Person for More Information: Michael Galvin, Ph.D., NIOSH Health Scientist, 1600 Clifton Road, NE., Mailstop E–20, Atlanta, Georgia 30333, telephone 404/498–2524, fax 404/498–2569.

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 CDC and the Agency for Toxic Substances and Disease Registry.

Dated: June 6, 2003.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–14926 Filed 6–12–03; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D–0384]

Guidance for Industry: Standardized Training Curriculum for Application of Hazard Analysis Critical Control Point Principles to Juice Processing; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a final guidance document entitled ''Guidance for Industry: Standardized Training Curriculum for Application of HACCP Principles to Juice Processing'' (the guidance). The guidance advises juice processors of FDA's view that the 1st Edition of the Juice Hazard Analysis Critical Control Point (HACCP) Training Curriculum of the Juice HACCP Alliance (the standardized curriculum) is adequate for use in training individuals to meet the requirements of the juice HACCP regulation. The guidance also advises processors and educators on how the requirements of the juice HACCP regulation may be met using the standardized curriculum or alternative curricula for training individuals and on how they can view, download, or purchase the standardized curriculum.

DATES: You may submit written or electronic comments on the guidance document at any time.

ADDRESSES: Submit written requests for single copies of the guidance to Michael E. Kashtock, Center for Food Safety and Applied Nutrition (CFSAN) (see **FOR FURTHER INFORMATION CONTACT**). Include a self-addressed adhesive label to assist that office in processing your request.

Submit written comments on the document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Michael E. Kashtock, Center for Food Safety and Applied Nutrition (HFS–305), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 301–436–2022, FAX: 301–436–2651, e-mail: *mkashtoc@cfsan.fda.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

FDA's juice HACCP regulation in part 120 (21 CFR part 120) includes in § 120.13 a requirement that individuals who perform certain specified functions, e.g., developing the hazard analysis or the HACCP plan, ''shall have successfully completed training in the application of HACCP principles to juice processing at least equivalent to that received under standardized curriculum recognized as adequate by the Food and Drug Administration, or shall be otherwise qualified through job experience to perform these functions.'' The guidance advises juice processors of FDA's view that the 1st Edition of the Juice HACCP Training Curriculum of the Juice HACCP Alliance (coordinated through the efforts of the National Center for Food Safety and Technology at the Illinois Institute of Technology) (the standardized curriculum) is adequate for use in training individuals to meet the requirements of the juice HACCP regulation. This guidance also advises processors and educators on how the requirements of the juice HACCP regulation may be met using the standardized curriculum or alternative curricula for training individuals and on how they can view, download, or purchase the standardized curriculum.

The guidance document is a level 1 guidance issued consistent with FDA's good guidance practices regulation (21 CFR 10.115) relating to the development, issuance, and use of guidance documents.

In the **Federal Register** of October 7, 2002 (67 FR 62489), FDA announced the availability of a draft guidance document entitled ''Guidance for Industry: Standardized Training Curriculum for Application of HACCP Principles to Juice Processing.'' The agency solicited public comment on the draft guidance document. FDA did not receive any comments and is finalizing the draft guidance document without revision.

This guidance represents the agency's current thinking on curricula for training juice processing personnel in the application of HACCP principles to juice processing. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public.

II. Comments

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments regarding the guidance document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

A copy of the guidance document is available on the Internet at *http://www.cfsan.fda.gov/guidance.html*.

Dated: June 4, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–14897 Filed 6–12–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee on Infant Mortality; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Advisory Committee on Infant Mortality (ACIM).

Dates and Times: July 16, 2003, 9 a.m.–5 p.m. July 17, 2003, 8:30 a.m.–3 p.m.

Place: The Latham Hotel, 3000 M Street, NW., Washington, DC 20007, (202) 726–5000.

Status: The meeting is open to the public.

Purpose: The Committee provides advice and recommendations to the Secretary of Health and Human Services on the following: Department programs which are directed at reducing infant mortality and improving the health status of pregnant women and infants; factors affecting the continuum of care with respect to maternal and child health care, including outcomes following childbirth; strategies to coordinate the variety of Federal, State, local and private programs and efforts that are designed to deal with the health and social problems impacting on infant mortality; and the implementation of the Healthy Start initiative and infant mortality objectives from *Healthy People 2010*.

Agenda: Topics that will be discussed include the following: Low-Birth Weight and Preterm Birth; Birth Defects and Other Neonatal Conditions; and the Healthy Start Program. Agenda items are subject to change as priorities are further determined.

For Further Information Contact: Anyone requiring information regarding the Committee should contact Peter C. van Dyck, M.D., M.P.H., Executive Secretary, ACIM, Health Resources and Services Administration (HRSA), Room 18–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, telephone (301) 443–2170.

Individuals who are interested in attending any portion of the meeting or who have questions regarding the meeting should contact Ann M. Koontz, C.N.M., Dr.P.H., HRSA, Maternal and Child Health Bureau, telephone (301) 443–6327.

Dated: June 6, 2003.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 03–14898 Filed 6–12–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Homeland Security Advisory Council

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Homeland Security Advisory Council (HSAC or Council) will hold its inaugural meeting on Monday June 30, 2003 in Washington, DC. The HSAC will meet for the purposes of: (1) Welcoming and introducing the members of the Council; (2) announcing the Chairs and Vice Chairs of the HSAC's Senior Advisory Committees; (3) receiving briefings by senior government officials on the Department's TOPOFF II exercise; and (4) holding roundtable discussions with and among Council members. This meeting will be partially closed; the open portion of the meeting, for purposes of (1), (2), and (3) above will be held at the Renaissance Mayflower Hotel, 1127 Connecticut Avenue, NW., from 10 a.m. to 12:15 p.m. The closed portion of the meeting, for purposes of (4) above, will be held at the Renaissance Mayflower Hotel from 12:30 to 3 p.m.

Public Attendance: Due to limited availability of seating, members of the public will be admitted on a first-come, first-served basis. In addition, due to security concerns, any member of the public who wishes to attend the meeting must provide his or her name, social security number and date of birth no later than 5 p.m. EDT, Wednesday, June 25, 2003, to Mike Miron, member of the HSAC staff, via email at *HSAC@dhs.gov,* or via phone at (202) 786–0279. Persons with disabilities who require special assistance should indicate so in their admittance request. Photo identification will be required for entry into the building, and everyone in attendance must be present and seated by 9:40 a.m.

Basis for Closure: In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. 2), the Secretary has issued a determination that portions of this HSAC meeting will concern matters sensitive to homeland security within the meaning of 5 U.S.C. 552b(c)(7) and (c)(9)(B) and that, accordingly, these portions of the meeting will be closed to the public.

Public Comments: Members of the public who wish to file a written statement with the HSAC may do so by mail to Mike Miron at the following address: Homeland Security Advisory Council, Department of Homeland Security, Washington, DC 20528. Comments may also be sent via email to *HSAC@dhs.gov* or via fax to (202) 772–9718.

Tom Ridge,

Secretary of Homeland Security.

[FR Doc. 03–15089 Filed 6–11–03; 10:39 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4815–N–32]

Notice of Proposed Information Collection: Comment Request Standardized Form for Collecting Information Regarding Race and Ethnic Data

AGENCY: Office of the Administration for Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due:* August 12, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8001, Washington, DC 20410, or *Wayne_Eddins@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Eric Gauff, AJT, Office of Departmental Grants Management and Oversight, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–0667 (this is not a toll-free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Standardized Form for Collecting Information Regarding Collection of Race and Ethnic Data.

OMB Control Number: 2535–0113.

Description of the need for the information and proposed use: HUD's standardized form for the Collection of Race and Ethnic Data complies with OMB's revised standards for Federal agencies issued, October 30, 1997. These standards apply to HUD program office and partners that collect, maintain, and report Federal data on race and ethnicity for program administrative reporting, and civil rights compliance reporting. The new standards are intended to give Federal agencies enhanced ability to collect information that reflect, the growing diversity of the U.S. population.

Agency Form Numbers, if Applicable: HUD–27061.

Members of Affected Public: Individuals or Households, Business or other for-profit, not-for-profit institutions, State, Local or Tribal government.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: This proposal will result in no significant increase in the current information collection burden. An estimation of the total number of hours needed to provide the information

for each grant application is 0.01 hour (approximately on minute), however, the burden will be assessed against each individual grant program submission under the Paperwork Reduction Act; number of respondents is an estimated 11,000; 60% of responses will be quarterly and 40% annually.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 9, 2003.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 03–14899 Filed 6–12–03; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4814–N–04]

Notice of Proposed Information Collection: Comment Request HOPE for Homeownership of Single Family Homes (HOPE 3)

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comment Due Date:* August 12, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Shelia E. Jones, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW., Room 7232, Washington, DC 20410–7000.

FOR FURTHER INFORMATION CONTACT: Patricia Mason, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410,(202) 708–0614, ext 4588 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: HOPE for Homeownership of Single Family Homes (HOPE 3).

OMB Control Number, if applicable: 2506–0128.

Description of the need for the information and proposed use: The Homeownership Opportunities for People Everywhere (HOPE 3) Program provides Federal grants to develop and implement homeownership programs for low income people. This information is needed to assist HUD monitor grantees previously awarded HOPE 3 Program Implementation Grants through the collection of data in the Program's Cash and Management Information System, environmental review assessments and annual performance report requirements. The Department does not anticipate additional awards for the HOPE 3 Program.

Agency form numbers, if applicable: SF 424, HUD 40086, 40102–A, 40101–B, 40103, 40104, and 40105.

Members of affected public: State and local governments, nonprofit organizations.

Estimation of the total numbers of hours needed to prepare the information collection, including number of respondents, frequency of response, and hours of response: The Department estimates that the 158 respondents will require 15,490 hours. Annually (approximately 100 per respondent) to prepare the Information collection.

Status of the proposed information collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 34, as amended.

Dated: June 9, 2003.

Roy Bernardi,

Assistant Secretary for Community Planning and Development.

[FR Doc. 03–15028 Filed 6–12–03; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4809–N–24]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

DATES: June 13, 2003.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless.

Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: June 5, 2003.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 03–14596 Filed 6–12–03; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4665–N–09]

Conference Call for the Manufactured Housing Consensus Committee

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of upcoming meeting via conference call.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming meeting of the Manufactured Housing Consensus Committee (the Committee) to be held via telephone conference. This meeting is open to the public.

DATES: The conference call will be held on Friday, June 27, 2003, from 11 a.m. to 1 p.m.

ADDRESSES: Information concerning the conference call can be obtained from the Department's Consensus Committee Administering Organization, the National Fire Protection Association (NFPA). Interested parties can log onto NFPA's Web site for instructions on how to participate and for contact information for the conference call: *http://www.nfpa.org/ECommittee/HUDManufacturedHousing/hudmanufacturedhousing.asp.* Alternately you may contact Jill McGovern of NFPA by phone at (617) 984–7404 (this is not a toll-free number) for conference call information.

FOR FURTHER INFORMATION CONTACT: William W. Matchneer III, Administrator, Office of Manufactured Housing Programs, Office of the Deputy Assistant Secretary for Regulatory Affairs and Manufactured Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–6409 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2) and 41 CFR 102–3.150. The Manufactured Housing Consensus Committee was established under section 604(a)(3) of the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 4503(a)(3). The Consensus Committee is charged with providing recommendations to the Secretary to adopt, revise, and interpret manufactured housing construction and safety standards and procedural and enforcement regulations, and with developing proposed model installation standards. The purpose of this conference call is to discuss the Consensus Committee's review and recommendations to the Secretary on the Department's draft Proposed Rule for the on-site completion of manufactured homes.

Tentative Agenda

A. Roll Call
B. Discussion of draft on-site rule
C. Balloting on Consensus Committee actions
A. Adjournment

Dated: June 5, 2003.

Sean Cassidy,

General Deputy Assistant Secretary for Housing.

[FR Doc. 03–15029 Filed 6–12–03; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–931–6320 HAG3–0055]

Notice of Availability of Draft Integrated Pest Management Program Environmental Impact Statement for the Horning Seed Orchard

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Draft Integrated Pest Management Environmental Impact Statement (EIS) for the Horning Seed Orchard.

SUMMARY: In accordance with Section 202 of the National Environmental Policy Act of 1969, a Draft Integrated Pest Management EIS has been prepared for the Bureau of Land Management's Horning Seed Orchard in the Bureau's Salem District. The Draft EIS describes and analyzes options for integrated pest management to control the insect, weed, animal, and disease problems at the orchard and to maintain healthy, vigorous crop trees for the production of seed and other vegetative materials used for reforestation and a variety of land management actions. Preparation of this EIS precedes a final decision regarding the selection of an integrated pest management alternative at Horning Seed Orchard

DATES: Written comments on the Draft EIS will be accepted for 60 days following the date the Environmental Protection Agency publishes the Notice of Availability in the **Federal Register** Written comments may also be presented at a public meeting/open house, which will be announced at least 15 days in advance through public notices, media news releases, and/or mailings.

ADDRESSES: Written comments on the document should be addressed to: Mr. Greg Tyler, Manager Horning Seed Orchard at 27004 Sheckly Road, Colton, OR 97017, or by fax at 503–630–6888, or by e-mail to *orhsoipmeis@or.blm.gov.* Copies will be available at all 13 city and county public libraries located in Clackamas County, OR, and on the BLM Salem District Web site at *http://www.or.blm.gov/salem/html/planning/horning_ipm.htm.* Copies will also be available from the Salem District Office, 1717 Fabry Road, SE, Salem, OR 97306; 503–375–5626. Public reading copies will be available for review at the following BLM locations: BLM Oregon State Office, Portland, OR; and BLM Office of Public Affairs, Washington, DC. Background information and maps used in developing the EIS are available at the Salem District Office and the Oregon State Office in Portland.

Pursuant to 7 CFR part 1, subpart B, § 1.27, all written and electronic submissions in response to this notice, public scoping letters, and draft and final Environmental Impact Statements will be made available for public inspection at the Salem District office (1717 Fabry Road SE, Salem, OR) during regular hours (7:30 a.m. to 4 p.m., Monday through Friday, except holidays) including the submitter's name and address, unless the submitter specifically requests confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, submitted on official letterheads, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Tyler, Manager Horning Seed Orchard at 27004 Sheckley Road, Colton, OR 97017, 503–630–8406, *orhsoipmeis@or.blm.gov.*

SUPPLEMENTARY INFORMATION: The draft EIS analyzes four action alternatives and the No Action alternative to manage pests at Horning Seed Orchard. The alternatives can be summarized as follows:

Alternative A—Maximum Production Integrated Pest Management. Pests would be managed using all identified biological, chemical, prescribed fire, cultural and other pest control methods, including aerial application of esfenvalerate by helicopter.

Alternative B—Integrated Pest Management with Environmental Protection Emphasis. Pests would be managed using all of the methods in Alternative A, with special restrictions to protect workers' health and safety and the environment. The restrictions are based on the results of the human health and ecological risk assessment, scoping comments, and anticipated consultation issues with the National Marine Fisheries Service under the Endangered Species Act.

Alternative C—Ground-Based Integrated Pest Management. This alternative is identical to Alternative B except for the exclusion of helicopter application.

Alternative D—Non-Chemical Pest Management. Pests would be managed using only the biological, prescribed fire, cultural, and other non-chemical pesticide methods listed under Alternative A. No chemical methods would be permitted.

Alternative E—No Action: Continuation of Current Management Approach. The current management system uses all non-chemical pest control practices at the seed orchard, as well as the use of limited chemicals on a specific case-by-case basis. All biological, prescribed fire, cultural, and other non-chemical pesticide methods would be available for use. When a specific need is identified for a chemical pesticide, the action would be reviewed to determine whether it is encompassed by an existing NEPA document, or whether an environmental assessment or EIS is required.

The preferred alternative is Alternative B.

Public participation has occurred throughout the NEPA process. Two Notices of Intent were filed in the **Federal Register** (FR) on March 26, 1999 (64 FR 14747) and March 29, 2001 (66 FR 17192). An open house, mail-outs, and a site visit also have been conducted to solicit comments and ideas. All comments presented throughout the process have been considered in developing the Draft EIS.

Denis Williamson,

District Manager.

[FR Doc. 03–14285 Filed 6–12–03; 8:45 am]

BILLING CODE 6320–HL–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–931–6320 HAG3–0056]

Notice of Availability of Draft Integrated Pest Management Program Environmental Impact Statement for the Provolt and Sprague Seed Orchards

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Draft Integrated Pest Management Environmental Impact Statement (EIS) for the Provolt and Sprague Seed Orchards.

SUMMARY: In accordance with Section 202 of the National Environmental Policy Act of 1969, a Draft Integrated Pest Management EIS has been prepared for the Bureau of Land Management's Provolt and Sprague Seed Orchards in the Bureau's Medford District. The Draft EIS describes and analyzes options for integrated pest management to control the insect, weed, animal, and disease problems at the orchards and to maintain healthy, vigorous crop trees for the production of seed and other vegetative materials used for reforestation and a variety of land management actions. Preparation of this EIS precedes a final decision regarding the selection of an integrated pest management alternative at Provolt and Sprague Seed Orchards.

DATES: Written comments on the Draft EIS will be accepted for 60 days from the date the Environmental Protection Agency publishes the Notice of Availability in the **Federal Register**. Written comments may also be presented at public meetings/open houses and will be announced at least 15 days in advance through public notices, media news releases, and/or mailings.

ADDRESSES: Written comments on the document should be addressed to: Mr. Harvey Koester, Manager Provolt and Sprague Seed Orchards, 3040 Biddle Road, Medford, OR 97504, or by fax to 541–618–2400, or by e-mail to *Medford_SPOEIS_Mail@or.blm.gov.* Copies will be available at Medford and Grants Pass public libraries located in Jackson and Josephine Counties, OR, and on the BLM Medford District Web site at *http://www.or.blm.gov/medford/planning/medpest_eis_main.html.* Copies will also be available from the Medford District Office, 3040 Biddle Road, Medford, OR 97504; 541–618–2200. Public reading copies will be available for review at the following BLM locations: BLM Oregon State Office, Portland, OR; and BLM Office of Public Affairs, Main Interior Building, Washington, DC. Background information and maps used in developing the EIS are available at the Medford District Office and the Oregon State Office in Portland.

Pursuant to 7 CFR part 1, subpart B, § 1.27, all written and electronic submissions in response to this notice, public scoping letters, and draft and final Environmental Impact Statements will be made available for public inspection at the Medford District office (3040 Biddle Road, Medford, OR) during regular hours (7:45 a.m. to 4:30 p.m., Monday through Friday, except holidays) including the submitter's name and address, unless the submitter specifically requests confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, submitted on official letterheads, and from individuals identifying themselves as representatives or officials of organization or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey Koester, Manager Provolt and Sprague Seed Orchards, 3040 Biddle Road, Medford, OR 97504, 541–618–2401, *Medford_SPOEIS_Mail@or.blm.gov.*

SUPPLEMENTARY INFORMATION: The draft EIS analyzes three action alternatives and the No Action alternative to manage pests at Provolt and Sprague Seed Orchards. The alternatives can be summarized as follows:

Alternative A—Maximum Production Integrated Pest Management. Pests would be managed using all identified biological, chemical, prescribed fire, cultural and other pest control methods.

Alternative B—Integrated Pest Management with Environmental Protection Emphasis. This is the preferred alternative. Pests would be managed using all of the methods in Alternative A, with special restrictions to protect workers' health and safety and the environment. The restrictions are based on the results of the human health and ecological risk assessment, scoping comments, and anticipated consultation issues with the Fish and Wildlife Service and the National Marine Fisheries Service under the Endangered Species Act.

Alternative C—Non-Chemical Pest Management. Pests would be managed using only the biological, prescribed fire, cultural, and other non-chemical pesticide methods listed under Alternative A. No chemical methods would be permitted.

Alternative D—No Action: Continuation of Current Management Approach. The current management system uses all non-chemical pest control practices at the seed orchard, as well as the use of limited chemicals on a specific case-by-case basis. All biological, prescribed fire, cultural and other non-chemical pesticide methods available for use. When a specific need is identified for a chemical pesticide, the action would be reviewed to determine whether it is encompassed by an existing NEPA document, or whether an environmental assessment or EIS is required.

Public participation has occurred throughout the NEPA process. Two Notices of Intent were filed in the **Federal Register** (FR) on March 26, 1999 (64 FR 14747) and March 29, 2001 (66 FR 17192). Open houses, mail-outs, and site visits also have been conducted to solicit comments and ideas. All comments presented throughout the process have been considered in developing the Draft EIS.

Mary Smelcer,

Acting District Manager.

[FR Doc. 03–14286 Filed 6–12–03; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Availability of the Supplemental Environmental Impact Statement for Management of Port-Orford-Cedar in Southwest Oregon

AGENCIES: USDI, Bureau of Land Management.

ACTION: Notice of availability of the draft supplemental environmental impact statement (SEIS) for management of Port-Orford-cedar in Southwest Oregon.

SUMMARY: The Forest Service (FS) and Bureau of Land Management (BLM) (the Agencies) have prepared a Draft SEIS to supplement the analyses contained in the Final EIS for the Resource Management Plans for the Coos Bay, Medford, and Roseburg BLM Districts (1995) and the Land and Resource Management Plan for the Siskiyou National Forest (1988). These areas are located in southwest Oregon. The Draft SEIS is now available for public review.

DATES: Written comments on the Draft SEIS will be accepted for 90 days following the date that Environmental Protection Agency publishes their Notice of Availability of the Draft SEIS in the **Federal Register**. The Agencies ask that those submitting comments on the Draft SEIS make them as specific as possible, with reference to page numbers and chapters of the document, and meaningful so as to alert the agencies to the reviewer's position and contention.

ADDRESSES: If you wish to comment, you may submit your comments by any one of several methods. You may mail your comments to Port-Orford-cedar SEIS Team, PO Box 2965, Portland, OR 97208. You may also comment via e-mail to *ORPOCEIS@or.blm.gov.* Comments received in response to this solicitation, including names and home addresses, will be considered part of the public record on this proposal and are available for public review during regular business hours. Comments, including names and home addresses, may be published as part of the Final SEIS. Requests to receive copies of the Draft SEIS should be sent to the address listed above. Alternately, the Draft SEIS is available on the Internet at *http://www.or.blm.gov/planning/Port-Orford-cedar_SEIS/.* Copies are also available for inspection at Forest Service and BLM offices in southwestern Oregon and northwestern California. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety. Comments submitted anonymously will be accepted and considered. Anonymous comments do not create standing or a record of participation. All submissions from organizations and business, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Ken Denton, SEIS Team Leader, P.O. Box 2965, Portland, Oregon 97208, telephone (503) 326–2368.

SUPPLEMENTARY INFORMATION: The tree species Port-Orford-cedar is killed by an exotic root disease (*Phytophthora lateralis*) that is linked, at least in part, to transport of spore-infested soil by human and other vectors. Water-borne spores then readily spread the disease down slope and down stream.

Five alternatives are considered in detail in the Draft SEIS. Alternative 1, no action, continues the current direction of implementing available disease-management practices based on site-specific analysis. Alternative 2 specifically describes available control practices and adds a risk key to clarify the environmental conditions that require implementation of additional site-specific practices. Alternative 3 includes all elements of Alternative 2, and adds additional protections for 32 currently uninfested 6th-field watersheds. Alternative 4 removes existing disease management practices, but accelerates the resistant breeding program to provide resistant stock for all areas within 10 years. Alternative 5 also removes existing disease management practices, and stops development of resistant seed for remaining undeveloped breeding zones. The preferred alternative is Alternative 2. A decision to select one of the action alternatives would amend the management direction in the three BLM and one FS land and resource management plans and BLM resource management plans in the planning area.

The SEIS addresses deficiencies identified in a February 12, 2003 U.S. District Court decision, which held the Resource Management Plan Environmental Impact Statement for the Coos Bay District and a related project Environmental Assessment did not adequately analyze the cumulative effects of management activities on the health of Port-Orford-cedar outside the project area.

The analysis considers the entire natural range of Port-Orford-cedar, but only land and resource management plans within the Oregon portion of the range are proposed for amendment at this time.

The responsible official for lands administered by the Forest Service will be the Regional Forester, Region 6. The responsible official for public lands administered by the BLM will be the State Director, Oregon/Washington State Office.

No public hearings or meetings are planned.

Charles E. Wassinger,

Associate State Director, Oregon/Washington, Bureau of Land Management.

[FR Doc. 03–15119 Filed 6–12–03; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–931–6320 HAG3–0057]

Notice of Availability of Draft Integrated Pest Management Program Environmental Impact Statement for the Tyrrell Seed Orchard

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Draft Integrated Pest Management Environmental Impact Statement (EIS) for the Tyrrell Seed Orchard.

SUMMARY: In accordance with section 202 of the National Environmental Policy Act of 1969, a Draft Integrated Pest Management Environmental Impact Statement (EIS) has been prepared for the Bureau of Land Management's Tyrrell Seed Orchard in the Bureau's Eugene District. The Draft EIS describes and analyzes options for integrated pest management to control the insect, weed, animal, and disease problems at the orchard and to maintain healthy, vigorous crop trees for the production of seed and other vegetative materials used for reforestation and a variety of land management actions. Preparation of this EIS precedes a final decision regarding the selection of an integrated pest management alternative at Tyrrell Seed Orchard.

DATES: Written comments on the Draft EIS will be accepted for 60 days following the date the Environmental Protection Agency publishes the Notice of Availability in the **Federal Register.** Written comments may also be presented at a public meeting/open house, which will be announced at least 15 days in advance through public notices, media news releases, and/or mailings.

ADDRESSES: Written comments on the document should be addressed to: Mr. Glenn Miller, Manager Tyrrell Seed Orchard, 26350 Siuslaw River Road (PO Box 121), Lorane, OR 97451, or by fax to 541–683–6597, or by e-mail to *OR_Eugene_TSOEIS@or.blm.gov.*

Copies will be available at Eugene (Eugene city library-downtown branch), Springfield, Cottage Grove, and Veneta public libraries located in Lane County, OR, and on the BLM Eugene District Web site at *http://www.edo.or.blm.gov/planning/seed_orchard/pest_mgmt_eis.htm*. Copies will also be available from the Eugene District Office, 2890 Chad Drive, Eugene, OR 97440; 541–683–6600. Public reading copies will be available for review at the following BLM locations: BLM Oregon State Office, Portland, OR; and BLM Office of Public Affairs, Washington, DC. Background information and maps used in developing the EIS are available at the Eugene District Office and the Oregon State Office in Portland.

Pursuant to 7 CFR part 1, subpart B, § 1.27, all written and electronic submissions in response to this notice, public scoping letters, and draft and final Environmental Impact Statements will be made available for public inspection at the Eugene District office (2890 Chad Drive, Eugene, OR) during regular hours (7:45 a.m. to 4:15 p.m., Monday through Friday, except holidays) including the submitter's name and address, unless the submitter specifically requests confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law.

All submissions from organizations or businesses, submitted on official letterheads, and from individuals identifying themselves as representatives or officials of organization or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Mr. Glenn Miller, Manager Tyrrell Seed Orchard, 26350 Siuslaw River Road (PO Box 121), Lorane, OR 97451, 541–683–6445, *OR_Eugene_TSOEIS@or.blm.gov.*

SUPPLEMENTARY INFORMATION: The draft EIS analyzes four action alternatives and the No Action alternative to manage pests at Tyrrell Seed Orchard. The alternatives can be summarized as follows:

Alternative A—Maximum Production Integrated Pest Management. Pests would be managed using all identified biological, chemical, prescribed fire, cultural and other pest control methods, including aerial application of esfenvalerate by helicopter.

Alternative B—Integrated Pest Management with Environmental Protection Emphasis. Pests would be managed using all of the methods in Alternative A, with special restrictions to protect workers' health and safety and the environment. The restrictions are based on the results of the human health and ecological risk assessment, scoping comments, and anticipated consultation issues with the National Marine Fisheries Service under the Endangered Species Act.

Alternative C—Ground-Based Integrated Pest Management. This alternative is identical to Alternative B except for the exclusion of helicopter application.

Alternative D—Non-Chemical Pest Management. Pests would be managed using only the biological, prescribed fire, cultural, and other non-chemical pesticide methods listed under Alternative A. No chemical methods would be permitted.

Alternative E—No Action: Continuation of Current Management Approach. The current management system uses all non-chemical pest control practices at the seed orchard, as well as the use of limited chemicals on a specific case-by-case basis. All biological, prescribed fire, cultural, and other non-chemical pesticide methods would be available for use. When a specific need is identified for a chemical pesticide, the action would be reviewed to determine whether it is encompassed by an existing NEPA document, or whether an environmental assessment or EIS is required.

The preferred alternative is Alternative B.

Public participation has occurred throughout the NEPA process. Two Notices of Intent were filed in the **Federal Register** (FR) on March 26, 1999 (64 FR 14747) and March 29, 2001 (66 FR 17192). An open house, mail-outs, and a site visit also have been conducted to solicit comments and ideas. All comments presented throughout the process have been considered in developing the Draft EIS.

Pat Russell,

Acting District Manager.

[FR Doc. 03–14287 Filed 6–12–03; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–610–1610–DP]

Notice of Availability for the Draft West Mojave Plan (DWMP) and Draft Environmental Impact Statement (DEIS)

AGENCY: California Desert District (California), Bureau of Land Management.

ACTION: Notice of availability of the Draft West Mojave Plan (DWMP) and Draft Environmental Impact Statement (DEIS).

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the National Environmental Policy Act (NEPA), this document provides notice that the Bureau of Land Management (BLM) has

prepared a Draft West Mojave Plan (DWMP) and Draft Environmental Impact Statement (DEIS) for public review and comment. This planning activity encompasses approximately 3.3 million acres of public land managed by the BLM's California Desert District, located in Inyo, Kern, Los Angeles and San Bernardino Counties in southern California.

The Draft West Mojave Plan was prepared in collaboration with state and local governments, which takes into account local, regional and national needs and concerns.

The conservation strategy to be implemented on public lands include measures that would be compatible with the development of a habitat conservation plan on 3 million acres of private and local government lands within the planning area.

This notice initiates the public review process on the DWMP and DEIS. The public is invited to review and comment on the range and adequacy of the draft alternatives and associated environmental effects.

DATES: The comment period will end 90 days following publication of the Environmental Protection Agency's Notice of Availability of the DWMP and DEIS in the **Federal Register**. Comments on the Draft RMP/EIS should be received on or before the end of the comment period at the address listed below.

Public Meetings: Public meetings will be held during the comment period. In order to ensure local community participation and input, public meetings will be held at selected locations in Inyo, Kern, Los Angeles and San Bernardino Counties, California. Early participation by all those interested is encouraged. Meeting locations and dates will be announced at least 15 days in advance through local media and online at *http://www.ca.blm.gov/news/meetings.html.* All individuals, organizations, agencies, and tribes with a known interest in this planning effort have been sent a copy of the document for review.

Written comments will be accepted throughout the planning process at the address shown below. For comments to be most helpful they should relate to specific concerns or conflicts that are within the legal responsibilities of the BLM and are feasible to be resolved in this planning process.

Written comments should be sent to the Bureau of Land Management, California Desert District Office, Attn. West Mojave Plan Staff, 22835 Calle San Juan De Los Lagos, Moreno Valley, CA 92553.

Documents pertinent to this proposal may be examined at the BLM California Desert District Office, the BLM Ridgecrest Field Office, 300 South Richmond Road, Ridgecrest, California 93555, and the BLM Barstow Field Office, 2601 Barstow Road, Barstow, California 92311 during regular business hours from 7:45 a.m. to 4 p.m., Monday through Friday, except holidays. The draft documents also are available online at *http://www.ca.blm.gov/cdd/wemo.html.* Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

FOR FURTHER INFORMATION: For further information and/or to have your name added to our mailing list, contact William Haigh, Project Manager, at (760) 252–6080 (Phone), e-mail at *whaigh@ca.blm.gov.*

SUPPLEMENTARY INFORMATION: The DWMP addresses the management of 3.3 million acres of public lands administered by the BLM in eastern Kern County, southern Inyo County, northern Los Angeles County and western San Bernardino County, all of which are within the State of California. The BLM's Ridgecrest and Barstow Field Offices administer most of these public lands. A small amount of acreage administered by the BLM's Needles and Palm Springs Field Offices is also affected. All public lands are within the California Desert Conservation Area, and all lie within the jurisdiction of the BLM's California Desert District.

The DWMP is being prepared collaboratively with local jurisdictions, state and other federal agencies. The purpose of the West Mojave Plan is to develop conservation strategies for over 100 listed and sensitive plant and animal species that are found within the western Mojave Desert, including the threatened desert tortoise and the California-listed Mojave Ground Squirrel, and to simplify procedures for complying with the California and federal Endangered Species Acts. Other issues being addressed include the development of a motorized vehicle access network for public lands in the region, and effects of the program on regional economics, growth-inducing impacts, livestock grazing, mining, cultural resources and recreation. The Plan would be implemented on public lands through amendments to BLM's California Desert Conservation Area Plan.

The DEIS considers and analyzes seven (7) alternatives (A–G), including the No Action alternative, with Alternative A identified as the agency's Preferred Alternative. These alternatives have been developed based on extensive public input following an initial round of scoping meetings in January 1992, extensive biological and field survey work in the late 1990's, nearly 50 ''task group'' attended by representatives of the participating agencies and jurisdictions and the general public between December 1999 and May 2002, numerous other public meetings, and a final round of scoping meetings in June and July 2002. The proposed action and alternatives were based on comments and suggestions offered during those meetings.

The alternatives provide for a wide array of land use allocations and management direction. The alternatives provide for variable levels of commodity production, resource protection, special areas, and authorized land and resource uses, including endangered species conservation, motorized vehicle access to public lands, livestock grazing and various forms of recreation. Any necessary amendments to the BLM's CDCA Plan will be addressed. A final Environmental Impact Statement and proposed West Mojave Plan are expected to be available for public review in October 2003.

Dated: February 14, 2003.

Linda Hansen,

District Manager, California Desert District.

[FR Doc. 03–14910 Filed 6–12–03; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Revision of a currently approved collection; COPS Tribal Resources Grant Program (TRGP) Hiring Progress Report.

The Department Justice (DOJ) Office of Community Oriented Policing Services (COPS) has submitted the following information collection request to the Office of Management and Budget

(OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 12, 2003. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collections instrument with instructions or additional information, please contact Gretchen DePasquale, (202) 305–7780, Office of Community Oriented Policing Services, 1100 Vermont Avenue, NW., Washington DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the 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 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.

(2) *Title of the Form/Collection:* COPS Tribal Resources Grant Program Hiring Progress Report.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* COPS. Form Number: Not applicable. Office of Community Oriented Policing Services, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: TRGP Hiring award recipients Other: None Abstract: The currently approved collection instrument targets TRGP award recipients to gather data on officer positions received under the Tribal Resources Grant Program. The data will be used by the COPS Office to monitor the progress of the TRGP award recipients in implementing their grant and for compliance monitoring efforts.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: There will be an estimated 200 responses. The estimated amount of time required for the average respondent to respond is half an hour.

(6) *An estimate of the additional public burden (in hours) associated with the collection:* The total estimated burden on the public is 100 hours annually.

If additional information is required contact: Brenda Dyer, Deputy Clearance Officer Information Management and Security Staff, Justice Management Division, United States Department of Justice, 601 D Street NW., Patrick Henry Building, Suite 1600, NW., Washington, DC 20530.

Dated: June 10, 2003

Brenda Dyer,

Deputy Clearance Officer, Department of Justice.

[FR Doc. 03–15004 Filed 6–12–03; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Revision of a currently approved collection; COPS Tribal Resources Grant Program (TRGP) Equipment and Training Progress Report.

The Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 12, 2003. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collections instrument with instructions or additional information, please contact Gretchen DePasquale, (202) 305–7780, Office of Community Oriented Policing Services, 1100 Vermont Avenue, NW., Washington DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the 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 information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of a currently approved collection

(2) *Title of the Form/Collection:* COPS Tribal Resources Grant Program Equipment and Training Progress Report

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Office of Community Oriented Policing Services (COPS). Form Number: Not applicable.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: TRGP Equipment/ Training award recipients Other: None. Abstract: The currently approved collection instruments targets TRGP award recipients to gather data on equipment purchased and/or training received under the Tribal Resources Grant Program. The data will be used by the COPS Office to monitor the progress of the TRGP award recipients in implementing their grant and for compliance monitoring efforts.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to

respond: There will be an estimated 200 responses. The estimated amount of time required for the average respondent to respond is half an hour.

(6) An estimate of the additional public burden (in hours) associated with the collection: The total estimated burden on the public is 100 hours annually.

If additional information is required contact: Brenda Dyer, Deputy Clearance Officer Information Management and Security Staff, Justice Management Division, United States Department of Justice, 601 D Street, NW., Patrick Henry Building, Suite 1600, NW., Washington, DC 20530.

Dated: June 10, 2003.

Brenda Dyer,

Deputy Clearance Officer, Department of Justice.

[FR Doc. 03–15005 Filed 6–12–03; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Security Programs: Unemployment Insurance Program Letter Interpreting Federal Law

The Employment and Training Administration interprets federal law requirements pertaining to unemployment compensation (UC). These interpretations are issued in Unemployment Insurance Programs Letters (UIPLs) to State Workforce Agencies. The UIPL described below is published in the **Federal Register** in order to inform the public.

UIPL 30–02, Changes 2 and 3

UIPL 30–02, Changes 2 and 3 and their attachments provide the states with the requirements of the Temporary Extended Unemployment Compensation (TEUC) Act of 2002, as deemed amended by Section 4002 of Public Law 108–11, as operating instructions and responses to questions pertaining to the TEUC available to certain displaced airline and airline related workers.

Dated: June 5, 2003.

Emily Stover DeRocco,

Assistant Secretary.

Employment and Training Administration Advisory System

U.S. Department of Labor, Washington, DC 20210

Classification: OWS
Correspondence Symbol: DUIO
Date: April 25, 2003

Advisory: Unemployment Insurance Program Letter No. 30–02, Change 2.

To: All State Workforce Agencies.

From: Cheryl Atkinson s/s, Administrator, Office of Workforce Security.

Subject: Temporary Extended Unemployment Compensation (TEUC) Act of 2002—Additional TEUC for Displaced Airline and Related Workers.

1. *Purpose.* To provide State Workforce Agencies (SWAs) instructions for implementing the changes to the TEUC program related to displaced airline and related workers.

2. *References.* Title II of the Job Creation and Worker Assistance Act of 2002 (The Temporary Extended Unemployment Compensation Act of 2002), Public Law 107–147; Public Law 108–1; UIPL No. 30–02 dated July 5, 2002; UIPL No. 30–02, Change 1, dated January 9, 2003; Section 4002 of Public Law 108–11, signed by the President on April 16, 2003; Section 205 of the Federal-State Extended Unemployment Compensation Act of 1970, as amended; Section 233 of the Trade Act of 1974; 20 CFR Part 615; ET Handbook No. 401; ET Handbook No. 410.

3. *Summary.* Section 4002 of P.L. 108–11 creates special rules for determining TEUC eligibility for certain displaced airline and related workers, who were separated for one of the specified reasons from a qualifying base period employer on or after September 11, 2001. In brief, such workers will qualify for up to 39 weeks of basic TEUC (henceforth ''TEUC–A''), plus up to 13 weeks of TEUC–X (henceforth ''TEUC–AX''). TEUC–A is payable for weeks of unemployment beginning with the first week beginning after April 16, 2003, through the week ending no later than December 28, 2003. Individuals with TEUC–A or TEUC–AX balances remaining on December 28, 2003, can claim those balances during the transition period which ends with the last week that begins on or before December 26, 2004. TEUC–A claims cannot be augmented with TEUC–AX (that is, TEUC–AX entitlement cannot be established) during the transition period.

Rescissions: None
Expiration Date: Continuing

4. *Summary of the New Provisions.* For weeks of unemployment beginning after April 16, 2003, the new provisions (see Attachment A to this UIPL) do the following for *displaced airline and related workers:*

a. Prescribes that TEUC–A is payable and monetary determinations and redeterminations may be effective through the last week ending before December 29, 2003;

b. Prescribes a basic TEUC–A benefit amount that is the lesser of 150 percent of the maximum benefit amount (MBA) of regular benefits of the parent claim or 39 times the individual's average weekly benefit amount (AWBA);

c. Provides a TEUC–AX augmentation of ⅓ of the basic TEUC–A MBA for ''eligible individuals.''

d. Provides a transition period during which benefits may be paid to each eligible individual who has ''an amount remaining'' in his/her TEUC–A or AX account as of December 28, 2003. The transition period ends with the last week beginning on or before December 26, 2004.

5. *Interpretation.* SWAs are required to continue to follow the Department of Labor's interpretation of the TEUC Act and the operating instructions previously published in UIPL No. 30–02, and UIPL No. 30–02, Change 1, to guide states in administering the TEUC program, except as changed by this advisory with respect to the determination of eligibility for ''eligible individuals'' as defined in Section 4002(a)(1) of Public Law 108–11.

These instructions are issued to the states and cooperating state agencies as guidance provided by the Department in its role as the principal in the TEUC program. As agents of the United States, the states and cooperating state agencies may not vary from the operating instructions without the prior approval of the Department. The interpretations and procedures issued in this document are in addition to those previously issued as UIPL No. 30–02, and UIPL No. 30–02, Change 1, and apply only with respect to the TEUC determination in accordance with the provisions of Public Law 108–11.

6. *TEUC Agreements.* TEUC, including TEUC–A, is administered through voluntary agreements between states and the Department of Labor. All states have agreements with the Secretary to administer the TEUC program under provisions of the TEUC Act. The existing agreements remain in effect, and no new agreements are necessary.

7. *Notifications.*

a. *Identification and Notification of Potentially Eligible Claimants.* Implementation of the requirements of Section 4002, Public Law 108–11, requires identification of each potentially ''eligible individual,'' including each interstate claimant. To satisfy this requirement, SWAs must send written notification to each individual who was laid-off from a base period employer on or after September 11, 2001. SWAs must send immediate written notification to each such individual who has exhausted all available TEUC benefits from the beginning of the TEUC program. (SWAs are not required to contact individuals whose separation was not due to a lay-off. As discussed in item 8.b. below, these individuals are not eligible for TEUC–A.) We provide the following draft notice:

Notice

Additional benefits are now available under the Temporary Emergency Unemployment Compensation program for unemployed airline and related workers.

If you are currently unemployed, you should contact us if you worked in an airline or related industry and you believe that you lost your job with a base period employer, at least partially, as a result of terrorist actions of September 11, 2001, as a result of security responses to these attacks or the closing of an airport, or as a result of the military conflict in Iraq.

Airline and related industries are: air carriers, businesses operating at an airport, businesses that perform additional, value-added production processes for air carriers or businesses providing products, supplies and services that are received or utilized by an airline.

To distribute the workload associated with making TEUC–A nonmonetary

determinations and resulting monetary redeterminations, SWAs should consider staggering notifications to such individuals who are in current TEUC or TEUC–X benefit status, allowing sufficient time to determine whether or not the claimant is an ''eligible individual'' for TEUC–A purposes prior to exhaustion. The notification of claimants that are currently in regular, additional, or extended benefit (EB) status (under the permanent EB program) can be accomplished as a notice included with a TEUC monetary determination.

b. *Notification of Media.* To assure public knowledge of this special extension of the TEUC program for airline and related workers, the SWA must notify appropriate news media having coverage throughout the state and provide appropriate information on its website.

8. *Qualifying Base Period Employment.* Establishing base period employment as ''qualifying employment'' for TEUC–A purposes is three-fold. First, the employment must have occurred ''in whole or in part'' during the base period of the ''applicable benefit year'' for the TEUC–A claim. Second, the employment must be with the type of employer(s) or at the location specified below. Third, the separation from such employment, which may have occurred during the base period or later, must be ''in whole or in part'' due to a qualifying reason specified in 'b' below.

a. *Qualifying Employment.* To satisfy the requirement for ''qualifying employment,'' some base period employment must be with the type of employer(s) or at the location specified as follows:

(1) *Air Carriers.* Air carriers for purposes of TEUC–A are limited to those that hold a certificate issued under chapter 411 of title 49, United States Code, by the Federal Aviation Administration of the U.S. Department of Transportation. Certificates issued under this chapter include those issued for charter air carriers and all-cargo air carriers. Attachment C provides a listing of all such carriers.

(2) *At a facility at an airport.* A ''facility at an airport'' includes any employer that is physically located on the grounds of an airport such as:

- Retail food facilities such as restaurants, bars, fast-food shops, and popcorn stands.
- Other retail facilities such as gift shops, newsstands, clothing stores, and kiosks.
- Hotels located on the airport grounds.
- Aircraft maintenance and service facilities.
- Parking facilities.
- Car rental facilities.
- Any other business physically located on the airport grounds, regardless of its business activities.

A ''facility at an airport'' also includes any airline related business which, although offsite, provides functions that are integrally related to the operation of the airport. These include airport parking on privately owned land, car rental services, or aircraft maintenance and service facilities. Employment with the same employer at a facility that does not meet this definition of ''facility at an airport'' is not ''qualifying employment'' for purposes of TEUC–A.

(3) *Supplier for an Air Carrier.* A ''supplier'' is an employer that produces component parts for, or articles and contract services considered to be a part of the production process or services for, an air carrier or for another supplier or upstream producer whose supplies, products or services are received or utilized by an air carrier and used for airline industry purposes.

Example 1: A catering service that supplies an air carrier with food purchased from another firm is a supplier. The firm from which the food is purchased is also a supplier because it is supplying products to a supplier that are received by an air carrier.

Example 2: An employer manufactures commercial aircraft for air carriers and private aircraft for individuals and non-airline corporations. As a result of the terrorist action, the employer suffers a loss of business in its private aircraft business. It loses no sales to air carriers. The employer separates some workers, including those who manufactured commercial aircraft, because of the lost revenues. Even though the employer supplies air carriers and even though workers who worked on those supplies were separated, the separated workers are not eligible for TEUC–A because there is no loss in air carrier-related business.

Example 3: A janitorial company provides services for an aircraft manufacturer. It does not provide services to an air carrier. Due to a loss in air carrier business, the aircraft manufacturer no longer has a need for these janitorial services. As a result, the janitorial company separates several workers. Even though these workers were separated due to a loss of business by the aircraft manufacturer that could be traced back to the air carrier, they are not eligible for TEUC–A because they did not supply any item or service which was used or received by an air carrier. For eligibility, services must always extend to an air carrier.

Example 4: An accounting firm provides accounting services for a caterer to an air carrier. The air carrier goes out of business because of the terrorist action. The caterer closes because the air carrier was its sole customer. The caterer's closing causes the accounting firm to separate one of its employees who provided services for the caterer. That individual does not have ''qualifying employment'' because the accounting firm is not a ''supplier'' within the meaning of the statute. The accounting firm's service to the caterer did not extend to the air carrier.

(4) *Upstream Producer for an Air Carrier.* An ''upstream producer'' is an employer that ''performs additional, value-added, production processes, including firms that perform final assembly, finishing, or packaging of articles, for another firm.''

We are not providing an example of an ''upstream producer'' because the definition of supplier appears to cover all entities eligible under the two definitions.

b. *Qualifying Separations.* To be in qualified employment the separation from base period employment must be due—in whole or in part—to one or more of the following reasons:

- Reductions in service by an air carrier as a result of the terrorist actions on September 11, 2001, or a security measure taken in response to such actions.
- A closure of an airport in the United States as a result of the terrorist actions on September 11, 2001, or a security measure taken in response to such actions.
- The military conflict with Iraq.

The separation from ''qualifying employment'' that establishes a claimant as an ''eligible individual'' may occur during the base period or lag period and does not have to be the most recent separation when the ''applicable benefit year'' was established.

A separation from lag period only employment with a qualified employer does not establish an individual as an ''eligible individual.'' Also, any separation from a qualified employer due to a voluntary quit or discharge for any reason is not a separation for a qualifying reason; the separation must be a ''lack-of-work'' separation due to one or more of the reasons stated above.

c. *Determining Whether a Claimant Has ''Qualifying Employment'' and is an ''Eligible Individual''.* To determine if a claimant is an ''eligible individual'' for TEUC–A purposes, SWAs must determine if the claimant has ''qualifying employment'' during the base period of the ''applicable benefit year'' that was used in the monetary determination for regular benefits. In making this determination, SWAs will follow their usual fact-finding procedures. This will require the SWA to contact employers to determine if the employment was of the type, or performed at the location, specified above, and if the reason for separation was one of the reasons specified above. We have attached a sample form that SWAs may elect to use for this purpose. SWAs may use an altered design as long as the required information is solicited from the employer. Where, after reasonable efforts to obtain information from the employer, the SWA does not have sufficient information to make a determination, then SWAs should evaluate the claimant's statement and follow standard procedures for issuing nonmonetary determinations. SWAs will be expected to preserve all documents relating to the determination for audit purposes.

In the case of larger employers, it may be evident that the employer is an air carrier (based on the attached listing), another type of easily identifiable large employer, or a facility located at an airport; it will not be necessary to verify the nature of the base period employment in such cases. As a result, when such an employer is identified, SWAs are encouraged, in lieu of sending a form for each claimant, to contact the employer as soon as possible to obtain a listing of all individuals laid-off, in whole or in part, due to the reasons described above.

If the SWA determines that the claimant is not an ''eligible individual'' for TEUC–A purposes, an appealable nonmonetary determination must be issued.

9. *Calculating Entitlement to TEUC–A and TEUC–AX.* Once an individual has been identified as an ''eligible individual'' qualifying for TEUC–A, the SWA will issue a monetary determination (or redetermination as the case may be) establishing TEUC–A eligibility. Any TEUC–

A balance will be payable only for weeks of unemployment beginning after April 16, 2003.

a. *TEUC–A Entitlement.* TEUC–A entitlement will equal the lesser of 150 percent of the MBA of regular benefits payable to the individual during the benefit year or 39 times the individual's AWBA payable during the benefit year for a week of total unemployment. If the state includes dependents' allowances in the calculation of the weekly benefit amount (WBA) for regular benefits, the same rule applies to the calculation of TEUC benefits. If the state calculates dependents' allowances separately from the WBA, the state will apply the same rule to the TEUC determination.

If an individual has already been paid TEUC or TEUC–X, the available TEUC–A balance will be reduced by the amount already paid in TEUC or TEUC–X benefits. Any TEUC–X previously paid is converted to TEUC–A and the TEUC–X determination is disregarded.

b. *TEUC–AX Entitlement.* The amount of TEUC–AX payable equals one-third of the TEUC–A entitlement. This means TEUC–AX is payable up to 13 times the WBA. Whether an individual qualifies for TEUC–AX will be determined by using the same criteria that apply to TEUC–X. Specifically, an individual must exhaust TEUC–A during an EB or TEUC–X period as authorized by the TEUC Act.

10. *Transition Payments.* TEUC–A and TEUC–AX continue to be payable to individuals with a balance in their TEUC account as of December 28, 2003, during the transition period which ends with the last week beginning on or before December 26, 2004.

11. *Reporting TEUC–A and TEUC–AX Activity.* TEUC–A and TEUC–AX activity is reportable under the existing TEUC reporting requirements for the ETA 207, ETA 218, ETA 227, ETA 539, ETA 2112, ETA 5130 and ETA 5159. Please note that form ETA 2112 has changed recently. Previously, TEUC payment totals had been reported on line 39. The totals are now reportable on line 41. For reporting purposes, no separation of TEUC–A and AX from other TEUC program activity is required, with the following exception: States are to report the total number of newly qualified TEUC–A claimants determined during the month in the comments section of the TEUC ETA 5159 report. This total should be the sum of new TEUC–A determinations for recent exhaustees (of regular, additional or extended benefits, as appropriate) plus the redeterminations of existing or previously exhausted TEUC/TEUC–X claims.

The separate financial status report (Standard Form 269) for administrative grants and costs associated with the TEUC program is to include costs associated with this extension related to displaced airline and related workers (TEUC–A and TEUC–AX).

12. *Administrative Funding.* The payment of TEUC–A and TEUC–AX will involve an increase in claims activity and one-time implementation costs.

a. *Claims.* The UI–3 report will compile workload data from the TEUC versions of the ETA 5159, ETA 207, and ETA 5130. In addition, SWAs should enter the number of monetary redeterminations in column (a) of line 12, and a minutes per unit value of 05.000 in column (b).

b. *Implementation Supplemental Budget Requests (SBRs).* SWAs may submit an SBR for reimbursement of TEUC–A implementation costs. SBRs should be limited to one-time costs for the items listed below that are attributable to implementation of TEUC–A:

(1) Forms and supplies (*e.g.*, printed notices mailed to exhaustees)
(2) Computer programming
(3) Training and travel
(4) Public notices on television, radio, or in the newspapers
(5) Overhead related only to the above

Calculations for costs of SWA staff and contractors should be shown in accordance with the SBR instructions in ET Handbook No. 336. Costs for SWA staff should be included only if they are for overtime or if the positions were back-filled.

13. *OMB Approval.* The reporting instructions for the TEUC program have been approved by the Office of Management and Budget (OMB) under OMB Approval No. 1205–0433, expiration date December 31, 2004. However, OMB approval is being sought for approval of the burden hours associated with the request for employer information that is necessary for determining eligibility for TEUC–A. ETA will notify states upon OMB approval.

14. *Action Required.* Administrators are requested to provide this information and instructions to the appropriate staff.

15. *Inquiries.* Direct questions to the appropriate regional office.

16. *Attachment A:* Text of Section 4002, Public Law 108–11 [1]
Attachment B: Questions and Answers
Attachment C: List of Certified Air Carriers
Attachment D: Sample Employer Notice

Attachment B to UIPL No. 30–02, Change 2—Questions and Answers

1. Administrative

a. *Question:* Are new agreements between the state and the Department of Labor necessary for this extension?

Answer: No. The existing agreement remains in effect.

b. *Question:* What is the first week payable under this extension for TEUC–A?

Answer: The first week payable is the first week which begins after April 16, 2003.

c. *Question:* What is an ''air carrier'' for purposes of TEUC–A?

Answer: A qualifying air carrier is ''an air carrier that holds a certificate issued under chapter 411 of title 49, U.S.C.'' That section provides that an air carrier may provide air transportation only if it holds a certificate issued under chapter 411. Certificates may be issued for charter air carriers and all-cargo air transportations. See Attachment C for a listing of all certified air carriers.

d. *Question:* How will states determine if the individual has ''qualifying employment?''

Answer: Unlike other emergency extensions, including the basic TEUC program, for TEUC–A it will be necessary to verify whether at least one base period employer provided qualifying employment. We have prepared and attached a draft form that SWAs may elect to use in contacting employers (See Attachment D).

The employer's failure to respond to the notice does not absolve the agency from the responsibility to pursue the necessary information to verify the qualifying employment. The claimant's statement may be evaluated if the employer does not respond, but the state must meet the same standards required for any nonmonetary determination as stated in the Secretary of Labor's ''Standards for Claim Determinations'', Part V of the Employment Security Manual. This includes gathering evidentiary facts rather than conclusions, giving the claimant a reasonable opportunity to provide information when requested to do so, and obtaining the information promptly so that benefits will not be unduly delayed.

2. Claimants Potentially Eligible for TEUC Benefits Under This Extension

a. *Question:* What is the universe of claimants who are potentially eligible for TEUC–A under this extension?

Answer: All claimants that meet the definition of ''eligible individual'' as defined by Public Law 108–11 and otherwise meet the requirements for a TEUC benefit extension.

b. *Question:* Does the extended period for which TEUC–A is payable apply to all TEUC claims?

Answer: No. Only TEUC–A and TEUC–AX are payable during the extended period ending with the last week beginning on or before December 26, 2004.

c. *Question:* Does an individual who was separated from a certified air carrier prior to September 11, 2001, satisfy the definition of an ''eligible individual''?

Answer: No. The definition of an ''eligible individual'' includes a requirement that the individual's regular benefits for the ''applicable benefit year'' be partially or wholly based on ''qualifying employment.'' To be deemed ''qualifying employment,'' the separation from such employment must have occurred on or after September 11, 2001 because of: (1) reductions in service by an air carrier as a result of a terrorist attack on the United States on September 11, 2001, or security measure taken in response to such attack; (2) a closure of an airport in the United States as a result of such terrorist action or security measure; or (3) a military conflict with Iraq that has been authorized by Congress.

d. *Question:* Does an individual who satisfies the definition of ''eligible individual'' but who exhausted TEUC in June 2002 and is still unemployed potentially qualify for benefits under this extension?

Answer: Yes.

e. *Question:* Does an ''eligible individual'' with intervening employment since separation from ''qualifying employment'' who does not qualify for a new regular claim, based on the intervening employment, continue to meet the definition of an

[1] Attachment A is available in the *www.workforcesecurity.doleta.gov* Web site under Directives/Advisories.

''eligible individual'' for purposes of this extension?

Answer: Yes.

f. *Question:* Does an individual who is separated from an air carrier or from otherwise qualifying airline related employment but whose regular benefits were not based, in whole or in part, on such employment, meet the definition of an ''eligible individual'' for purposes of TEUC–A?

Answer: No. To meet the definition of an ''eligible individual'' for purposes of TEUC–A, the claimant's regular benefits must have been based, in whole or in part, on ''qualifying employment.'' In the case described, there is no ''qualifying employment'' in the base period.

3. Applicable Benefit Year for Airline and Related Workers TEUC Extension Purposes

a. *Question:* Does an individual with a prior benefit year, where regular benefits were based on ''qualifying employment,'' who is eligible for regular benefits in a subsequent benefit year have the option to receive TEUC–A based on the first benefit year?

Answer: No. An individual with existing entitlement to regular compensation is not an exhaustee for TEUC–A purposes.

4. Monetary Eligibility

a. *Question:* What is the maximum amount of TEUC–A benefits available to an ''eligible individual?''

Answer: Basic TEUC–A entitlement for ''eligible individuals'' will be determined as the lesser of 150 percent of the MBA of regular benefits payable to the individual during the benefit year or 39 times the individual's AWBA payable during the benefit year for a week of total unemployment. If the state includes dependents' allowances in the calculation of the weekly benefit amount (WBA) for regular benefits, the same rule applies to the calculation of TEUC–A benefits. If the state calculates dependents' allowances separate from the WBA, the state will apply the same rule to the determination for TEUC–A.

The TEUC–A account of an individual exhausting basic TEUC–A with payment for a week of unemployment beginning after April 16, 2003, and during an extended benefit (EB) period or TEUC–X period in the state, will be augmented by an amount equal to one-third (⅓) of the basic TEUC–A amount.

b. *Question:* When an ''eligible individual'' is in current claim status with an existing basic TEUC or TEUC–X balance what should the state do?

Answer: The SWA will issue a TEUC–A monetary redetermination to each ''eligible individual'' who has an existing TEUC balance, as of the effective date of TEUC–A, in an amount that is the lesser of 150 percent of the regular benefit MBA or 39 times the AWBA. All TEUC benefits, including TEUC–X, previously paid will reduce the available basic TEUC–A balance available. The available balance attributable to the redetermination is payable for weeks of unemployment beginning after April 16, 2003. Any TEUC–X previously paid becomes basic TEUC–A payments under the redetermination.

c. *Question:* When an ''eligible individual'' has exhausted basic TEUC prior to the effective date of this extension, what should the state do other than providing notification of the extension?

Answer: When this claimant files an additional or reopened claim, the SWA will issue a basic TEUC–A monetary redetermination in an amount that is the lesser of 150 percent of the regular benefit MBA or 39 times the AWBA. All TEUC benefits previously paid will reduce the available TEUC–A balance available. The basic TEUC–A balance available as a result of the redetermination is payable for weeks of unemployment beginning after April 16, 2003.

d. *Question:* When an ''eligible individual'' has exhausted TEUC–X prior to the effective date of this extension, what should the state do other than providing notification of the extension?

Answer: When this claimant files an additional or reopened claim, the SWA will issue a TEUC–A monetary redetermination in the amount of the lesser of 150 percent of the regular benefit MBA benefit amount or 39 times the AWBA effective for weeks of unemployment beginning after April 16, 2003. All basic TEUC and TEUC–X benefits previously paid will reduce the available TEUC–A balance available and are considered basic TEUC–A payments. The basic TEUC–A balance available as a result of the redetermination is payable for weeks of unemployment beginning after April 16, 2003.

e. *Question:* Can TEUC–AX augmentations continue to be made during the transition period?

Answer: No.

f. *Question:* Can a new TEUC–A monetary determination be issued effective for a week ending on or after December 29, 2003?

Answer: No.

BILLING CODE 4510–30–P

Attachment C to UIPL No. 30-02, Change 2

Certified Air Carriers

Carrier	Address	City	State	Zip	Telephone
ABX Air, Inc. d/b/a Airborne Express, Inc.	145 Hunter Drive, Airborne Air Park	Wilmington	OH	45177	937-382-5591
Active Aero Charter	*see USA Jet Airlines*				
Aero Micronesia, Inc. d/b/a Asia Pacific Airlines	156 Diablo Road, Suite 203	Danville	CA	94526	
Aerodynamics Incorporated	6544 Highland Road, P.O. Box 270100	Waterford	MI	48327	248-666-3500
Air Micronesia, Inc.	Box 8778-G, A.B. Won Pat Int'l Airport	Tamuning	GU	96931	671-646-5125
Air Midwest, Inc. d/b/a US Airways Express	Box 7724, 2230 Air Cargo Road	Wichita	KS	67209	316-942-8137
Air Transport International LLC	One Cantrell Center 2800 Cantrell Rd.	Little Rock	AR	72202	501-615-3500
Air Wisconsin Airlines Corp. d/b/a AirTran JetConnect d/b/a United Express	W6390 Challenger Drive, Suite 203	Appleton	WI	54915	920-739-5123
Airborne Express, Inc.	*see ABX Air*				
Air-Serv., Inc. d/b/a AirServ d/b/a Indigo, L.L.C. d/b/a Indigo Corporate Jet Airline d/b/a NewWorldAir Holdings	445 N. Wells Street, Suite 203	Chicago	IL	60610	312-467-1545
AirTran Airways, Inc.	9955 AirTran Blvd	Orlando	FL	32827	407-251-5558
AirTran JetConnect	*see Air Wisconsin*				
Alaska Airlines, Inc.	Box 68900 Sea-Tac Int'l Airport	Seattle	WA	98168	206-433-3200
Alaska Central Express, Inc.	3551 Postmark Drive	Anchorage	AK	99517	907-245-0231
Alaska Juneau Aeronautics, Inc. d/b/a Wings of Alaska	8421 Livingston Way	Juneau	AK	99801	907-789-9863
Alaska Seaplane Service, LLC	1873 Shell Simmons Drive	Juneau	AK	99801	907-789-7880
Allegheny Airlines, Inc. d/b/a US Airways Express	Bldg. 601 Harrisburg International Airport	Middletown	PA	17057	717-948-5400
Allegiant Air, Inc.	4955 East Andersen Avenue, Suite 120	Fresno	CA	93727	559-455-5715
Aloha Airlines, Inc.	Box 30028	Honolulu	HI	96820	808-836-4101
America Rising	*see Glenwood Aviation*				
America West Airlines, Inc.	4000 E. Sky Harbor Blvd.	Phoenix	AZ	85034	602-693-0800
America West Express	*see Freedom Airlines*				
America West Express	*see Mesa Airlines*				
American Airlines	*see TWA Airlines*				
American Airlines, Inc.	Box 619616, MD 5621 4330 Amon Carter Blvd.	DFW Airport	TX	75261	817-963-1234
American Connection	*see Trans States Airlines*				
American Eagle	*see Executive Airlines*				
American Eagle Airlines, Inc.	Box 619616, MD 5475	DFW Airport	TX	75261	972-425-1500
American International Airways	*see Kalitta Air*				
American Trans Air	*see ATA Airlines*				
Amerijet International, Inc.	498 SW 34th Street	Ft. Lauderdale	FL	33315	954-359-0077
Ameristar Air Cargo, Inc.	4400 Glenn Curtiss Drive, Suite 202	Addison	TX	75001	972-248-2478, ext. 9375
Arctic Circle Air Service, Inc.	Box 190228	Anchorage	AK	99519	907-243-1380
Arctic Transportation Services, Inc.	5701 Silverado Way, Unit L	Anchorage	AK	99518	907-562-2227
Arrow Air, Inc. d/b/a Arrow Air d/b/a Fine Air d/b/a Fine Air Services d/b/a Fine Airlines	2261 NW 67th Ave, Bldg 700	Miami	FL	33122	305-871-6606
Asia Pacific Airlines	*see Aero Micronesia, Inc.*				
ATA	*see American Trans Air*				
ATA Airlines, Inc. d/b/a ATA d/b/a American Trans Air	Box 51609, Indianapolis Int'l Airport	Indianapolis	IN	46251	317-247-4000

Atlantic Coast Airlines, Inc. **d/b/a Delta Connection** **d/b/a United Express**	515A Shaw Road	Sterling	VA	20166	703-925-6000
Atlantic Coast Jet, LLC **d/b/a Delta Connection**	515A Shaw Road	Dulles	VA	20166	703-925-6000
Atlantic Southeast Airlines, Inc.	100 Hartsfield Center Parkway, Suite 800	Atlanta	GA	30354	404-766-1400
Atlas Air, Inc.	538 Commons Drive	Golden	CO	80401	303-526-5050
Baker Aviation, Inc.	Box 708	Kotzebue	AK	99752	907-442-3108
Bellair, Inc.	Box 60311	Fairbanks	AK	99707	907-457-8359
Bering Air, Inc.	Box 1650	Nome	AK	99762	907-443-5464
Bidzy Ta Hot' Aana, Inc. **d/b/a Tanana Air Service**	Box 60713	Fairbanks	AK	99706	907-474-0301
Big Sky Transportation Co. **d/b/a Big Sky Airlines, Inc.** **d/b/a Northwest Airlink**	1601 Aviation Place	Billings	MT	59105	406-245-9449
BNJ Charter Company L.L.C.	130 Signature Way	East Granby	CT	06026	860-292-1191
Boston-Maine Airways Corp. **d/b/a Pan Am Clipper Connection**	Pease International Tradeport 14 Aviation Avenue	Portsmouth	NH	03801	603-766-2000
Brendan Airways, LLC **d/b/a USA 3000 Airlines**	335 Bishop Hollow Road, Suite 100	Newtown Square	PA	19073	610-325-1280
Camai Air	*see Village Aviation*				
Cape Smythe Air Service, Inc.	Box 549	Barrow	AK	99723	907-852-8333
Capital Cargo International Airlines, Inc.	6200 Hazeltine National Dr. Suite 100	Orlando	FL	32822	407-855-2004
Caribbean Sun Airlines, Inc.	580 SW 34th Street, Suite 580	Ft. Lauderdale	FL	33315	954-359-7846
Casino Express Airlines	*see TEM Enterprises*				
CCAir, Inc. **d/b/a Piedmont Charter** **d/b/a Piedmont Commuter** **d/b/a US Airways Express**	Box 19929	Charlotte	NC	28219	704-359-8990
Centurion Air Cargo, Inc.	1800 NW 89th Place	Miami	FL	33172	305-392-2593
Champion Air	*see Grand Holdings*				
Charter America	*see Custom Air Transport*				
Comair, Inc. **d/b/a Delta Connection**	Box 75021, Cincinnati/ Northern Ky. Int'l Airport	Cincinnati	OH	45275	606-767-2550
Continental Airlines, Inc.	1600 Smith St., 19th Floor	Houston	TX	77002	713-324-5468
Continental Connection	*see SkyWest Airlines*				
Continental Express	*see ExpressJet Airlines*				
Continental Micronesia, Inc. **d/b/a Continental/Air Micronesia**	Guam Int'l Airport PO Box 8778	Tamuning	GU	96931	671-647-6595
Custom Air Transport, Inc. **d/b/a Charter America**	3305 SW 9th Ave 2nd Fl.	Ft. Lauderdale	FL	33315	954-523-4211
Daystar Airways, Ltd. **d/b/a Nevis Express**	1470 Seppala Drive	Nome	AK	99762	907-443-5919 (fax)
Delta Air Lines, Inc. **d/b/a Delta Express** **d/b/a Song**	Box 20706, Hartsfield-Atlanta Int'l Airport	Atlanta	GA	30320	404-715-2600
Delta Connection	*see Atlantic Coast Airlines*				
Delta Connection	*see Atlantic Coast Jet*				
Delta Connection	*see Comair*				
Delta Connection	*see SkyWest Airlines*				
Delta Express	*see Delta Air Lines*				
DHL Airways, Inc. **d/b/a DHL Worldwide Express**	333 Twin Dolphin Drive	Redwood City	CA	94065	415-593-7474
Eagle Canyon Airlines, Inc. **d/b/a Scenic Airlines**	275 East Tropicana Avenue Ste. 220	Las Vegas	NV	89109	702-736-3333
Eagle Jet Charter, Inc. **d/b/a Eagle Air** **d/b/a Scenic Airlines**	275 East Tropicana Avenue Ste. 130	Las Vegas	NV	89109	702-736-1182
Empire Airlines, Inc.	2115 Government Way	Coeur d'Alene	ID	83814	208-667-5400

Era Aviation, Inc. d/b/a Era Classic Airlines d/b/a Era Helicopters	6160 Carl Brady Drive	Anchorage	AK	99502	907-248-4422
Evergreen International Airlines, Inc.	3850 Three Mile Lane	McMinnville	OR	97128	503-472-0011
Everts Air Alaska Everts Air Cargo	*see Tatonduk Outfitters*				
Executive Airlines, Inc. d/b/a American Eagle	Box 38032 Airport Station	San Juan	PR	00937	787-253-6401
Express One International, Inc.	8051 Jetstar Drive, Suite 180	Irving	TX	75063	214-902-2500
Express.net Airlines, LLC	101 Aviation Dr, N.	Naples	FL	34104	941-430-7080
ExpressJet Airlines, Inc. d/b/a Continental Express	1600 Smith St., Suite 1100	Houston	TX	77002	713-324-4421
F.S. Air Service, Inc.	6121 S. Airpark Place	Anchorage	AK	99502	907-248-9595
Falcon Air Express, Inc.	7270 N.W. 12th Street, Suite 680	Miami	FL	33126	305-592-5672
Federal Express Corporation	2005 Corporate Avenue, Third Floor	Memphis	TN	38132	901-395-3367
Fine Air/Fine Airlines/ Fine Air Services	*see Arrow Air*				
Flight Alaska, Inc. d/b/a Yute Air Alaska	Box 190169	Anchorage	AK	99519	907-342-3009
Florida West International Airways, Inc.	7500 NW 25th Street, Suite 237, PO Box 025752	Miami	FL	33102	305-341-9000
Forty Mile Air, Ltd.	Box 539	Tok	AK	99780	907-883-5191
Freedom Airlines, Inc. d/b/a America West Express	5605 N. MacArthur Blvd., Suite 1062	Irving	TX	75038	602-797-1951
Frontier Airlines, Inc.	12015 East 46th Avenue, Suite 200	Denver	CO	80239	303-371-7400
Frontier Flying Service, Inc.	3820 University Avenue	Fairbanks	AK	99709	907-474-0014
Frontier Jet Express	*see Mesa Airlines*				
Gemini Air Cargo, Inc.	44965 Aviation Dr.	Dulles	VA	20166	703-260-8100
Glenwood Aviation, LLC d/b/a America Rising	3060 Washington Road (Rt. 97)	Glenwood	MD	21738	301-854-6850
Grand Holdings, Inc. d/b/a Champion Air	8009 34th Ave., South, Suite 700	Bloomington	MN	55425	612-814-8718
Grant Aviation, Inc.	Box 92200	Anchorage	AK	99509	907-278-7025
Great Plains Airlines	*see Ozark Air Lines				
Gulf and Caribbean Cargo, Inc. d/b/a Gulf and Caribbean Air	1100 Lee Wagener Blvd., Suite 317	Ft. Lauderdale	FL	33315	954-359-7776
Hageland Aviation Services, Inc.	Box 220610	Anchorage	AK	99522	907-522-8684
Hawaiian Airlines, Inc.	Box 30008	Honolulu	HI	96820	808-835-3700
Hooters Air	*see Pace Airlines*				
Horizon Air Industries, Inc. d/b/a Horizon Air	19521 International Blvd.	SEATAC	WA	98188	206-241-6757
Iliamna Air Taxi, Inc.	Box 109	Iliamna	AK	99606	907-571-1248
Indigo Corporate Jet Airline	*see AirServ*				
Indigo, L.L.C.	*see AirServ*				
Inland Aviation Services, Inc.	P.O. Box 244	Aniak	AK	99557	907-675-4624
Island Air Service	*see Redemption, Inc.				
JetBlue Airways Corporation	80-02 Kew Gardens Road	Kew Gardens	NY	11415	718-286-7900
Kalitta Air, L.L.C. d/b/a American International Airways	818 Willow Run Airport	Ypsilanti	MI	48198	734-484-0088
Katmai Air, LLC d/b/a Katmai Air	4550 Aircraft Drive	Anchorage	AK	99502	907-243-5448
Kitty Hawk Aircargo, Inc.	Box 612787, 1515 W. 20th Street	DFW Int'l AP	TX	75261	972-456-2200
L.A.B. Flying Service, Inc.	Box 272	Haines	AK	99827	907-766-2222
Larry's Flying Service, Inc.	Box 2348	Fairbanks	AK	99707	907-474-9169
Lynden Air Cargo, LLC	6441 South Airpark Place	Anchorage	AK	99502	907-245-0641
Mesa Airlines, Inc. d/b/a America West Express d/b/a Frontier Jet Express d/b/a US Airways Express	410 N. 44th St., Suite 700	Phoenix	AZ	85008	602-685-4010

Mesaba Aviation, Inc. d/b/a Mesaba Airlines d/b/a Mesaba Northwest Airlink	7501 26th Avenue, South	Minneapolis	MN	55450	612-726-5151
MetroJet	*see US Airways*				
Miami Air International, Inc. d/b/a QCI d/b/a Quest Cargo International	Box 660880	Miami Springs	FL	33266	305-876-3600
Midway Airlines Corp.	5151 McCrimmon Parkway	Morrisville	NC	27560	916-595-6030
Midwest Airlines, Inc. d/b/a Midwest Express Airlines	6744 South Howell Avenue	Oak Creek	WI	53154	414-570-4000
Midwest Connect	*see Skyway Airlines*				
Midwest Express Airlines	*see Midwest Airlines*				
MN Airlines, LLC d/b/a Sun Country Airlines	2520 Pilot Knob Road, Suite 250	Mendota Heights	MN	55120	612-681-3900
National Airlines, Inc.	6020 Spencer Street	Las Vegas	NV	89119	702-944-2842
Nevis Express	*see Daystar Airways*				
NewWorldAir Holdings, Inc.	*see AirServ*				
North American Airlines, Inc.	Bldg. 75, JFK Int'l Airport, Suite 250	Jamaica	NY	11430	718-656-2650
Northern Air Cargo, Inc.	3900 W. International Airport Road	Anchorage	AK	99502	907-243-3331
Northwest Airlines, Inc.	5101 Northwest Drive	St. Paul	MN	55111	612-726-2111
Northwest Airlink	*see Big Sky Transportation*				
Olson Air Service, Inc.	Box 142, NE Ramp, Airport	Nome	AK	99762	907-443-2229
Omni Air Express	*see Omni Air International*				
Omni Air International, Inc. d/b/a Omni Air Express	Box 582527, Tulsa Int'l Airport	Tulsa	OK	74158	918-836-5393
Ozark Air Lines, Inc. d/b/a Great Plains Airlines	6501 E. Apache Street. Tulsa International Airport	Tulsa	OK	74115	918-835-3500
Pace Airlines, Inc. d/b/a Hooters Air	3800 North Liberty Street	Winston-Salem	NC	27102	800-548-1978
Pacific Wings, L.L.C.	P.O. Box 791537	Paia	HI	96779	808-873-0877
Pan Am Clipper Connection	*see Boston-Maine Airways*				
Pan American Airways Corp.	14 Aviation Avenue, Pease International Tradeport	Portsmouth	NH	03801	603-766-2000
Penair	*see Peninsula Airways*				
Peninsula Airways, Inc. d/b/a Penair	6100 Boeing Avenue	Anchorage	AK	99502	907-243-2485
Piedmont Charter/Commuter	*see CCAir*				
Planet Airways, Inc.	7380 Sand Lake Road, Suite 350	Orlando	FL	32819	407-363-1800
Polar Air Cargo, Inc.	15th Floor, 100 Oceangate	Long Beach	CA	90802	562-436-7471
Promech, Inc. d/b/a Promech Air d/b/a Seaborne Seaplane Adventures	1515 Tongass Avenue	Ketchikan	AK	99901	907-225-3845
QCI	*see Miami Air International*				
Quest Cargo International	*see Miami Air International*				
Redemption, Inc. d/b/a Island Air Service	P.O. Box 125	Kodiak	AK	99615	907-486-6196
Reliant Airlines, Inc.	Willow Run Airport, Box 827	Ypsilanti	MI	48198	734-483-3616
Ryan International Airlines, Inc. d/b/a SunTrips	266 N. Main	Wichita	KS	67202	316-265-7400
Scenic Airlines	*see Eagle Canyon Airlines*				
Scenic Airlines	*see Eagle Jet Charter*				
Seaborne Airlines	*see Seaborne Virgin Islands*				
Seaborne Seaplane Adventures	*see Promech*				
Seaborne Virgin Islands, Inc. d/b/a Seaborne Airlines	34 Strand Street	Christiansted, St. Croix	US VI	00820	340-773-5991
Servant Air, Inc.	PO Box 91186	Fairbanks	AK	99706	907-456-3140
Shuttle America Corporation d/b/a US Airways Express	11102 West Perimeter Road	Ft. Wayne	IN	46819	260-479-6200
Sierra Pacific Airlines, Inc.	7700 North Business Park Drive	Tucson	AZ	85743	520-744-1144
Skagway Air Service, Inc.	Box 357	Skagway	AK	99840	907-983-2218
Sky King, Inc.	3600 Power Inn Road	Sacramento	CA	95826	916-736-6821

Skyway Airlines, Inc. d/b/a Midwest Connect d/b/a Skyway Airlines, The Midwest Airlines Connection d/b/a Skyway Airlines, The Midwest Express Connection	1190 W. Rawson Avenue	Oak Creek	WI	53154	414-570-2300
SkyWest Airlines, Inc. d/b/a Continental Connection d/b/a Delta Connection d/b/a United Express	444 S. River Road	St. George	UT	84790	801-634-3000
Smokey Bay Air, Inc.	P.O. Box 457	Homer	AK	99603	907-235-1511
Song	*see Delta Air Lines*				
Southeast Airlines, Inc.	12552 Belcher Road	Largo	FL	33773	727-532-1632
Southern Air, Inc.	4323 Eastpoint Drive	Columbus	OH	43232	614-759-5000
Southwest Airlines Co.	Box 36611, 2702 Love Field Drive	Dallas	TX	75235	214-792-4000
Spernak Airways, Inc.	1707 Merrill Field Drive	Anchorage	AK	99501	907-272-9475
Spirit Airlines, Inc.	1400 Lee Wagener Blvd.	Ft.Lauderdale	FL	33315	954-447-7965
Sun Country Airlines	*see Sun Country Airlines*				
SunTrips	*see Ryan International*				
Sunworld International Airlines, Inc.	207 Grandview Drive	Fort Mitchell	KY	41017	606-331-0091
Tanana Air Service	*see Bidzy Ta Hot' Aana*				
Taquan Air	*see Venture Travel*				
Tatonduk Outfitters, Limited d/b/a Everts Air Alaska d/b/a Everts Air Cargo	Box 61680	Fairbanks	AK	99706	907-474-4699
TEM Enterprises, Inc. d/b/a Casino Express Airlines	976 Mountain City Highway	Elko	NV	89801	702-738-6040
TPI International Airways, Inc.	550 Connole Street	Brunswick	GA	31520	912-262-9405
TradeWinds Airlines, Inc.	243-A Burgess Road	Greensboro	NC	27409	910-668-7500
Trans States Airlines, Inc. d/b/a American Connection d/b/a US Airways Express	9275 Genaire Drive	St. Louis	MO	63134	314-895-8700
Trans-Air-Link Corporation	3305 SW 9th Ave Ste 110	Ft. Lauderdale	FL	33315	954-523-2123
TransMeridian Airlines, Inc.	680 Thorton Way	Lithia Springs	GA	30122	770-732-6901
TWA Airlines LLC	4333 Amon Carter Blvd.	Ft. Worth	TX	76155	817-967-1254
United Air Lines, Inc.	Box 66919	Chicago	IL	60666	847-700-4000
United Express	*see Air Wisconsin Airlines*				
United Express	*see Atlantic Coast Airlines*				
United Express	*see SkyWest Airlines*				
United Parcel Service Co.	1400 N. Hurstborne Pkwy	Louisville	KY	400223	502-329-3000
UPS	*see United Parcel Service*				
US Airways Express	*see Air Midwest*				
US Airways Express	*see Allegheny Airlines*				
US Airways Express	*see CCAir*				
US Airways Express	*see Mesa Airlines*				
US Airways Express	*see Shuttle America Airlines*				
US Airways Express	*see Trans States Airlines*				
US Airways Shuttle	*see US Airways*				
US Airways, Inc. d/b/a MetroJet d/b/a US Airways d/b/a US Airways Shuttle	2345 Crystal Drive, Crystal Park 4	Arlington	VA	22227	703-418-7000
USA 3000 Airlines	*see Brendan Airways*				
USA Jet Airlines, Inc. d/b/a Active Aero Charter	2068 E Street Willow Run Airport	Belleville	MI	48111	734-547-7200
Vanguard Airlines, Inc.	533 Mexico City Avenue	Kansas City	MO	64153	816-243-2100
Venture Travel, LLC d/b/a Taquan Air	P.O. Box 8495	Ketchikan	AK	99901	907-225-8800
Village Aviation, Inc. d/b/a Camai Air	Box 787	Bethel	AK	99559	907-543-4040
Warbelow's Air Ventures, Inc.	Box 60649, 3758 S. University Avenue	Fairbanks	AK	99709	907-474-0518
Westward Airways, Inc.	250027 Airport Terminal Street	Scottsbluff	NE	69361	308-220-3838

Wings of Alaska	*see Alaska Juneau Aeronautics*				
World Airways, Inc.	101 World Drive	Peachtree City	GA	30269	770-632-8240
Wright Air Service, Inc.	Box 60142, Fairbanks Int'l Airport	Fairbanks	AK	99706	907-474-0502
Yute Air Alaska	*see Flight Alaska, Inc.*				
Zantop International Airlines, Inc.	840 Detroit-Willow Run Airport	Ypsilanti	MI	48198	313-485-8900

Attachment D to UIPL No. 30-02, Change 2

Request for Employer Information - (Sample)

Employer Name and Address:	Claimant Name: Social Security Number:

The above-named claimant has filed a claim for Temporary Emergency Unemployment Compensation, which is available to displaced airline and related workers. To determine this individual's eligibility, we need information from you concerning the nature of your business and the cause of the individual's separation from employment with you during the following period: [insert base period]

SECTION I - TYPE OF EMPLOYMENT

Please answer "yes" or "no" to the following questions/statements and also complete Section II below:

1. If you are an Air Carrier with a certificate issued under Chapter 411 of Title 49 of the United States Code, check "yes" and proceed to Section II. Yes __ No __

2. Does this company/business have facilities on-site at an airport or off-site nearby that are integrally connected to operations at the airport? Yes __ No __

If "yes" describe_____

_____

3. This company/business provides one of the following to an airline or to a supplier or upstream producer to an airline for the airline's use:

   a. Value-added production processes, including final assembly, finishing, or packaging of articles. Yes __ No __

   b. Component parts or other articles. Yes __ No __

   c. Contract services. Yes __ No __

If you answered "yes" to any statement above, please name at least one airline or company that you provided the product or service to._____
If you name a company, please name at least one air carrier they supply._____

_____

SECTION II - REASON FOR SEPARATION

1. Was the above-named individual laid-off because of a loss of business, in whole or in part, because of:

   a. The reductions in airline service following the terrorist actions of September 11, 2001 or resulting security measures. Yes __ No __

   b. The closure of an airport in the U.S. as a result of such terrorist action or security measures. Yes __ No __

   c. The conflict with Iraq. Yes __ No __

Please provide any facts supporting your answers. Attach additional sheet if necessary. _____

Name:_____ Title: _____ Date:_____

BILLING CODE 4510–30–C

Employment and Training Administration Advisory System

U.S. Department of Labor, Washington, D.C. 20210

Classification: OWS

Correspondence symbol: DUIO
Date: May 7, 2003

Advisory: Unemployment Insurance Program Letter No. 30–02, Change 3.
To: All State Workforce Agencies.

From: Cheryl Atkinson s/s, Administrator, Office of Workforce Security.
Subject: Temporary Extended Unemployment Compensation (TEUC) Act of 2002—Additional TEUC for Displaced Airline and Related Workers.

1. *Purpose.* To respond to questions concerning implementation of the TEUC extension for displaced airline and related workers.

2. *References.* Title II of the Job Creation and Worker Assistance Act of 2002 (The Temporary Extended Unemployment Compensation Act of 2002), Public Law 107–147, signed by the President on March 9, 2002; Public Law 108–1, signed by the President on January 8, 2003; UIPL No. 30–02 dated July 5, 2002; UIPL No. 30–02, Change 1 dated January 9, 2003; UIPL No. 30–02, Change 2 dated April 25, 2003; Section 4002 of Public Law 108–11, signed by the President on April 16, 2003; Section 205 of the Federal-State Extended Unemployment Compensation Act of 1970, as amended; Section 233 of the Trade Act of 1974; 20 CFR Part 615; ET Handbook No. 401; ET Handbook No. 410.

3. *Background.* This advisory continues the Department's guidance concerning the TEUC program extension for airline and related workers (hereafter referred to as TEUC–A) by answering questions submitted by states. The answers address specific circumstances consistent with the Department's interpretation of Section 4002 of Public Law 108–11 which creates special rules for determining eligibility for TEUC–A. Please note: There is a typographical error in Attachment A to UIPL No. 30–02, Change 2, page 3. Section (3) ADDITIONAL WEEKS OF BENEFITS, (B) should read as follows: ''in subsection (c)(1), by inserting ''⅓ of'' after ''equal to''.

Rescissions: None
Expiration Date: Continuing.

The attached questions and answers are organized by category in order to make it easier to find questions and answers of interest.

4. *Action Required.* Administrators are requested to provide this advisory to appropriate staff and ensure adherence to the guidance.

5. *Inquiries.* Inquiries should be directed to your Regional Office.

6. *Attachment.* Questions and Answers for Clarification of Section 4002 of Public Law 108–11.

Attachment to UIPL No. 30–02, Change 3—Questions and Answers for Clarification of Section 4002, of Public Law 108–11

1. Administrative

a. *Question:* Item 7.a. of UIPL No. 30–02, Change 2, indicates that ''To satisfy this requirement, State Workforce Agencies (SWAs) must send written notifications to each individual who was laid off from a base period employer on or after September 11, 2001. SWAs must send immediate written notification to each such individual who has exhausted all available TEUC benefits from the beginning of the TEUC program.'' Shouldn't a notice be sent to anyone laid off after September 11, 2001, regardless of whether he/she exhausted TEUC?

Answer: No. If a claimant's most recent separation from each base period employer was prior to September 11, 2001, written notice is not sent because the claimant is not eligible for TEUC–A. Written notices must be sent to individuals who were laid off from a base period employer on or after September 11, 2001, and who are exhaustees for TEUC purposes, because whether or not they exhausted TEUC, they are potentially eligible for TEUC–A. The statement pertaining to immediate notification of TEUC exhaustees was intended to identify potentially eligible claimants that should be notified quickly because they may still be unemployed and without benefits. Other potentially eligible claimants that must be provided written notice as soon as possible are those claimants laid off by a base period employer after September 11, 2001, that have a remaining balance on their TEUC claim. These claimants are generally in benefit status or have returned to work and are not in need of an immediate TEUC–A determination in order to have benefits available.

b. *Question:* For TEUC or TEUC–X exhaustees, are initial claims required to initiate a determination of TEUC–A eligibility?

Answer: Yes, depending on each individual claimant's situation, *e.g.*, quarter change, benefit year ending, intervening employment, etc. The state must follow the same procedures as apply when there is a break or quarter change during the TEUC claim. The state must determine if the claimant still meets the basic requirements for TEUC.

c. *Question:* Must states determine if an individual has ''qualifying employment'' prior to making any TEUC–A payments? If so, should they allow their standard time for employers to respond?

Answer: Yes to both questions. Until the state has determined that the claimant is an ''eligible individual,'' no TEUC–A account may be established. However, if the claimant has not previously received a TEUC determination, the state must issue a TEUC determination and make payments pending redetermination to TEUC–A, if appropriate. Employers are to be given the same amount of time to respond to the request for information as they are normally given under state law.

d. *Question:* If a claimant is currently in basic TEUC status, must the state automatically commence converting the individual to TEUC–A?

Answer: No. Claims may not be automatically converted to TEUC–A. The state must first determine if the claimant is an ''eligible individual'' for TEUC–A purposes. Potentially eligible claimants receiving basic TEUC or TEUC–X must be advised of the TEUC–A option. States should advise claimants in current claim status of the TEUC–A option early enough to allow for the TEUC–A determination to be made before the claimant exhausts to prevent an interruption of payments to TEUC–A eligible claimants.

e. *Question:* Do all base period employers need to be notified or just the employer that the claimant identifies as being in ''qualifying employment?''

Answer: In general, each base period employer from which the claimant was laid off on or after September 11, 2001, must be contacted because the state may not issue an ineligible determination without establishing that the claimant does not have ''qualifying employment.'' However, in cases where the claimant appears on a qualified employer's list of individuals that were separated for one of the qualifying reasons, there is no need to contact other employers because the state has sufficient information to determine that the claimant is an ''eligible individual.''

f. *Question:* An individual is about to exhaust regular benefits and the state is prepared to notify the individual of the TEUC program. Because the individual will be eligible for basic TEUC, is it necessary to immediately investigate the claimant's eligibility for TEUC–A?

Answer: No. However, states should notify individuals of the TEUC–A option at the time of the TEUC initial claim in order to identify claims needing TEUC–A determinations. Notice of TEUC–A should be given no later than at the time of the issuance of the basic TEUC monetary determination. This notice will provide enough time for a TEUC–A determination before exhaustion of TEUC to avoid interruptions in payments to TEUC–A eligible claimants.

Upon finding that the individual is eligible for TEUC–A, the state will redetermine the claim to TEUC–A and report a redetermination in the comments section of the ETA 5159 as a TEUC–A redetermination.

g. *Question:* What is the last date that a new TEUC–A claim can be effective?

Answer: The last week for which a TEUC–A determination can be effective is the week that ends prior to December 29, 2003. That is the week ending December 27, 2003, for all states except New York where it is December 28, 2003.

h. *Question:* What is the last week for which TEUC–A can be paid?

Answer: The last week a TEUC–A claim can be paid is the last week beginning on or before December 26, 2004. That is the week beginning December 26, 2004, for all states except New York where it is December 20, 2004.

2. Applicable Benefit Year for TEUC–A Purposes

a. *Question:* If an individual has received TEUC based on a prior benefit year and has also received TEUC based on a subsequent benefit year that is redetermined to TEUC–A, must the amounts of TEUC previously paid for both TEUC claims be deducted to establish the remaining TEUC–A balance?

Answer: No. Only the TEUC benefits paid based on the same benefit year as the TEUC–A claim are deductible.

b. *Question:* An individual who has a TEUC–A claim is determined eligible for regular benefits for a new benefit year. Upon exhaustion of the regular benefits based on the new benefit year, may the claimant elect to receive TEUC–A based on the prior claim instead of the most recent benefit year?

Answer: No. The determination of TEUC–A eligibility must be based on the ''applicable benefit year,'' which in the scenario cited above is the most recent

benefit year. Also, whether or not the claimant is an ''eligible individual'' for TEUC–A purposes must be based on the base period employment for the ''applicable benefit year'' and the associated separation(s).

3. Monetary Eligibility

a. *Question:* An individual has two base period employers. Employment with one employer is ''qualifying employment,'' while employment with the other is not. Which employment is the individual's monetary eligibility based on?

Answer: The TEUC–A monetary calculation formula uses other factors and is not based on the amount of the base period wages from ''qualifying employment.'' TEUC–A monetary entitlement is based on the calculation of the lesser of 150 percent of the regular benefit maximum benefit amount (MBA) or 39 times the average weekly benefit amount (AWBA).

b. *Question:* TEUC–A benefits are applicable only to weeks beginning on or after the date of enactment, but all TEUC and TEUC–X benefits previously paid are to be deducted from the TEUC–A calculated MBA to create the TEUC–A account balance. Some TEUC and/or TEUC–X weeks claimed prior to enactment of Public Law 108–11 may not be paid until after the TEUC–A account balance has been established. May these weeks be paid from the balance available in the TEUC–A account?

Answer: Yes. The amount paid for all TEUC and TEUC–X compensable weeks is deductible from the redetermined TEUC–A MBA. When the payments are issued is immaterial. However, the MBA payable as TEUC and TEUC–X for weeks of unemployment ending prior to April 16, 2003, may not exceed the original TEUC amount of the lesser of 50 percent of the MBA or 13 times the AWBA, plus an additional amount up to 13 times the AWBA in high unemployment states. Therefore, after the TEUC–A determination is made, if there are weeks of unemployment prior to the first week beginning after April 16, 2003, for which the claimant is determined eligible, payments can be made but only up to the MBA payable for TEUC (and TEUC–X, if applicable).

c. *Question:* The claimant has exhausted TEUC in a state that has not been and is not in an extended benefit (EB) or TEUC–X period. What is the MBA payable based on a TEUC–A determination?

Answer: The TEUC–A monetary determination is calculated at the lesser of 150 percent of the MBA of the regular claim or 39 times the AWBA minus the TEUC previously paid based on the ''applicable benefit year,'' creating a TEUC–A balance payable of up to 26 times the AWBA. If the claimant exhausts TEUC–A while the state is in an EB or TEUC–X period, the claimant's account will be augmented by an amount equal to ⅓ of the TEUC–A MBA, thereby creating a TEUC–AX balance.

d. *Question:* The claimant has exhausted TEUC and TEUC–X in a state that is currently not in an EB or TEUC–X period. What is the MBA payable based on a TEUC–A determination?

Answer: The TEUC–A monetary is calculated at the lesser of 150 percent of the MBA of the regular claim or 39 times the AWBA minus the TEUC and TEUC–X previously paid based on the ''applicable benefit year,'' creating a balance payable of up to 13 times the AWBA. If the claimant exhausts TEUC–A while the state is in an EB or TEUC–X period, the claimant's account will be augmented by an amount equal to ⅓ of the TEUC–A MBA, thereby creating a TEUC–X balance.

e. *Question:* The claimant has exhausted TEUC and TEUC–X in a state that is currently in an extended benefit or TEUC–X period. What is the MBA payable based on a TEUC–A determination?

Answer: The TEUC–A monetary determination is calculated at the lesser of 150 percent of the MBA of the regular claim or 39 times the AWBA minus the TEUC and TEUC–X previously paid based on the ''applicable benefit year,'' creating a TEUC–A balance of up to 13 times the AWBA. If the claimant exhausts TEUC–A after the state's EB or TEUC–X period has triggered ''off,'' no additional TEUC–A benefits are payable. If the claimant exhausts while the state is in an EB or TEUC–X period, the claimant's account will be augmented by an amount equal to 1/3 of the TEUC–A MBA, thereby creating a TEUC–X balance.

4. Base Period Twenty—Weeks of Work Requirement

a. *Question:* To be eligible for TEUC–A, must the individual's ''qualifying employment'' in the base period meet the 20 weeks of full-time work or the equivalent in insured wages requirement?

Answer: No. The claimant's total base period employment and wages must meet the ''20 weeks of work'' requirement.

5. Determining if an Individual Is an ''Eligible Individual'' for TEUC–A Purposes

a. *Question:* The individual had ''qualifying employment'' during the base period of the prior benefit year. The new benefit year has no ''qualifying employment.'' Is this individual an ''eligible individual?''

Answer: No. For purposes of determining TEUC, and therefore TEUC–A eligibility, the ''applicable benefit year'' is the current or most recent benefit year. (See UIPL No. 30–02, pages II–1 and III–2.)

b. *Question:* The state has completed its TEUC–A fact-finding and is ready to issue a determination. What type of determination should be issued?

Answer: If the state determines an individual is eligible for TEUC–A, the state will issue or document an eligible nonmonetary determination and issue a TEUC–A monetary determination or redetermination, as appropriate. If the state determines an individual is ineligible for TEUC–A, the state will issue an ineligible nonmonetary determination only. In either case, the nonmonetary determination is reportable under ''Miscellaneous'' on the TEUC ETA 207 report.

c. *Question:* The individual had no ''qualifying employment'' in the base period, but did have ''qualifying employment'' in the lag period. Is this individual an ''eligible individual?'

Answer: No. In order for a claimant to be determined an ''eligible individual'' for TEUC–A purposes, ''qualifying employment'' must have been used in the determination of regular compensation for the ''applicable benefit year.''

d. *Question:* Do claimants have appeal rights if determined not eligible for TEUC–A?

Answer: Yes. States must provide the same appeal rights provided for determinations for regular benefits.

e. *Question:* Is a monetary determination notice sufficient to advise claimants they are not eligible for TEUC–A?

Answer: No. An appealable nonmonetary determination is required if a claimant is determined ineligible for TEUC–A.

f. *Question:* Since employers are being contacted to determine ''qualifying employment,'' are they interested parties to the determination?

Answer: No. Employers are not interested parties because their accounts are not potentially chargeable for TEUC–A.

g. *Question:* After issuing an eligible determination, the state receives late information from an employer that contradicts the claimant's statement. Is the state required to issue a redetermination or does the state follow its regular procedures?

Answer: Late information received from the employer must be considered. If it supports a denial of benefits, a redetermination must be issued. This procedure may differ from state law provisions prohibiting the use of information received after a decision has been issued. Such state provisions are intended to penalize an employer who has not complied with state law provisions concerning employer response. However, the employer is not an interested party to a TEUC–A determination and these state provisions must not be applied.

6. Determining if the Employment is ''Qualifying Employment''

a. *Question:* Qualifying separations include those due to ''military conflict with Iraq.'' Must separations due to the ''military conflict with Iraq'' be related to employment with a certified air carrier, employment at a facility at an airport, or employment with an upstream producer or supplier for an air carrier?

Answer: Yes. The separation has to be from employment with a certified air carrier, employment at a facility at an airport, or employment with an upstream producer or supplier for a certified air carrier. A separation due ''in whole or in part'' to the military conflict with Iraq is a qualifying separation for purposes of establishing ''qualifying employment.''

b. *Question:* Eight thousand servicemembers from a local military base were sent to Iraq. Are the local businesses that have suffered a loss of business due to the deployment considered to have provided ''qualifying employment'' or is that designation limited to airline-related employment?

Answer: The designation ''qualifying employment'' is limited to airline-related employment from which the individual was

separated for a qualifying reason. Therefore, employment with a non-airline related employers who have suffered a loss of business due to the deployment of large number of military servicemembers from the community is not ''qualifying employment.''

c. *Question:* If the claimant's regular benefit entitlement is determined using an alternate base period, are the normally lag period wages that are used in the determination ''qualifying employment'' if all other conditions are met?

Answer: Yes. If regular entitlement is determined using the alternate base period, that is the base period for purposes of determining ''qualifying employment.''

d. *Question:* During the base period, the claimant was employed with an air carrier and was separated for a nonqualifying reason. Subsequent to establishing the ''applicable benefit year,'' the claimant returned to work with that employer and was separated for a qualifying reason. Would this separation establish the base period employment as ''qualifying employment?'

Answer: Yes. The qualifying separation does not have to occur during the base period. In most cases it will probably occur during the lag period.

e. *Question:* The term ''qualifying employment'' as expressed in the law provides that separation from the employment must be due ''in whole or in part'' to one of three conditions. Is it possible that an individual can have employment with more than one base period employer that can be considered qualifying employment?

Answer: Yes.

f. *Question:* There are several hotels ''offsite'' along the main road of the airport. Would these hotels qualify as hotels at the facility?

Answer: No. Employment with a hotel that is not physically located on the grounds of the airport and that does not provide functions that are integrally related to the operation of the airport, is not ''employment at a facility at an airport.'' A ''facility at an airport'' includes any facility that is physically located on the grounds of an airport or those offsite businesses/facilities that provide functions that are integrally related to the operation of the airport. An offsite hotel may be convenient, but it is not ''integrally related to the operation of the airport.''

g. *Question:* A hotel located offsite near an airport had a contract with a certified air carrier to supply a certain number of rooms each night for airline personnel. Due to a reduction in the air carrier's flights, the contract with the hotel was canceled. Does the hotel meet the definition of a ''supplier'' for TEUC–A purposes?

Answer: Yes. This hotel is a ''supplier'' that provided services to a certified air carrier.

h. *Question:* An individual worked as a security screener at an airport. In response to the terrorist actions of September 11, 2001, this function was transferred to the newly created federal Transportation Security Administration (TSA). The individual was not hired by the TSA and is, as a result, now unemployed. Is this a qualifying reason for separation for TEUC–A purposes?

Answer: No. The above individual worked at a facility at an airport and was separated from employment due to a security measure taken in response to the terrorist actions of September 11, 2001. However, to have ''qualifying employment,'' the individual must have been separated because of reductions in service by an air carrier or the closure of an airport in the United States. This did not occur under the scenario described. Rather, the individual was separated because the TSA took over security at the airport.

i. *Question:* The claimant has a qualifying employer during the base period and a qualifying separation from that employer. The claimant is subsequently reemployed by the employer and has a disqualifying separation. Is this claimant's first separation from this employer a qualifying separation for TEUC–A purposes?

Answer: No. The definition of an ''eligible individual'' requires the individual to be separated from ''qualifying employment.'' The determination that base period employment constitutes ''qualifying employment'' includes a determination that the claimant was separated from the base period employment for a qualifying reason. In this case, although this claimant was separated after September 11, 2001, for a qualifying reason, when the employer recalled the claimant, the claimant was no longer separated from this employer. The claimant's subsequent separation from this base period employer is not for one of the three qualifying reasons.

j. *Question:* The claimant has base period employment with two potentially qualifying employers. One employer laid the individual off after September 11, 2001, for a qualifying reason; the other employer fired the claimant after September 11, 2001, for gross misconduct. Does this claimant have a qualifying separation, and is he/she eligible for TEUC–A?

Answer: Whether this claimant is ''eligible'' to receive TEUC–A depends on whether he/she has requalified if there was a misconduct disqualification. However, this claimant has ''qualifying employment'' and meets the definition of ''eligible individual'' for TEUC–A monetary determination purposes because he/she is separated from a base period employment for a qualifying reason. This situation is different from the individual with two separations from the same employer in that the non-qualifying separation from one base period employer does not nullify the qualifying separation from another base period employer. The issue is not whether the claimant's separation from his/her most recent potentially qualifying employment is qualifying, it is whether the claimant has ''qualifying employment,'' and this claimant does. However, to receive TEUC–A benefits, the individual must still meet all other eligibility requirements. Therefore, if the claimant has been disqualified, no TEUC–A is payable until the claimant has requalified.

k. *Question:* The claimant worked at an airport construction site building a parking ramp or remodeling a building. Would this employment be considered ''employment at a facility at an airport?''

Answer: Yes. Although the employer's office may have been located offsite, the claimant's employment at the construction site on the airport grounds constitutes ''employment at a facility at an airport.'' *However,* in order for the claimant to be an ''eligible individual,'' he/she must have been laid off from work at the airport construction site for one of the three qualifying reasons.

l. *Question:* Is a company that makes and supplies parts to an aircraft manufacturer that sells airplanes to a certified air carrier a ''supplier'' for purposes of TEUC–A?

Answer: Yes, because the air carrier is certified. However, to satisfy the definition of ''qualifying employment,'' the separation from the base period employment must be for a qualifying reason.

m. *Question:* Is a company that is contracted to install phones or computer equipment at an airport considered a ''supplier'' for an air carrier?

Answer: Yes, if the contract is with a certified air carrier. Also, the individual(s) installing the equipment on the airport grounds is performing services ''at a facility at an airport.'' Therefore, the employment satisfies the definition of ''qualifying employment'' if the separation was for one of the three qualifying reasons.

n. *Question:* A foreign air carrier has suffered a loss in business associated with the terrorist actions of September 11, 2001, and has laid off workers at airports throughout the United States. Does this employer meet the definition of an ''air carrier'' for purposes of TEUC–A?

Answer: No. An ''air carrier'' for purposes of TEUC–A is defined as ''an air carrier that holds a certificate issued under chapter 411 of title 49, United States Code.'' We have been advised by the Federal Aviation Administration that foreign air carriers are not issued such certificates. However, if this employer is located at an airport, then services performed for it at the airport represent ''employment at a facility at the airport.'' To qualify, however, the individual must have a qualifying separation. Because the reduction in service was not by a certified air carrier, the layoff must be due to one of the other two qualifying reasons, *i.e.*, due to an airport closure as a result of the terrorist actions of September 11, 2001, or due to the military conflict in Iraq.

o. *Question:* Due to a drop in business after the terrorist actions of September 11, 2001, a foreign air carrier cancels its contract with the local caterer whose sole contract was with this air carrier. The caterer goes out of business, laying off all of its workers. Does the caterer meet the definition of an ''upstream producer'' or ''supplier'' for TEUC–A purposes?

Answer: No. The caterer does not meet the definition of ''supplier'' because the products and services were not provided to a qualifying ''air carrier'' as defined in section 4002(a)(3) of Public Law 108–11.

p. *Question:* A manufacturer or supplier of private aircraft exclusively to individuals and non-airline related businesses laid off workers after the terrorist actions on September 11, 2001, when sales of the private aircraft were reduced. Does this constitute ''qualifying employment'' for purposes of TEUC–A?

Answer: No. Section 4002(a)(3) of Public Law 108–11 is clear in its definition of an ''air carrier'' for purposes of TEUC-A. Therefore, if the reduction in business is not due to reduction in service by a certified air carrier, the employment does not meet the definition of ''qualifying employment.''

q. *Question:* The TSA announced that later this year it will cut 11% of the security screeners at the nation's airports. Does this employment at airports with the TSA constitute ''qualifying employment'' for TEUC–A purposes?

Answer: No. These layoffs are not due to a qualifying reason for separation, *i.e.*, layoffs due to a reduction in service by the certified air carrier due to the September 11, 2001, terrorist actions or security measures taken in response thereto; closure of an airport for that reason; or the military conflict with Iraq.

r. *Question:* The meaning of the term ''qualifying employment'' includes ''employment at a facility at an airport.'' What is an airport?

Answer: Title 49, Section 40102(g) of the United States Code defines ''airport'' as ''a landing area used regularly by aircraft for receiving or discharging passengers or cargo.''

7. Determining if the Separation Is a Qualifying Separation

a. *Question:* The claimant worked in employment with a supplier of services utilized by a certified air carrier and was disqualified for a voluntary quit at the time the benefit year was established. On appeal, the determination was reversed because the employer failed to appear and the claimant maintained that the separation was due to a lay-off for lack of work. The claimant has now filed for TEUC–A and the employer has responded to the TEUC–A request for information stating that the claimant was not separated for a qualifying reason. How is this determination handled?

Answer: Determining whether or not the claimant's separation was for a qualifying reason for TEUC–A purposes is not the issue that was previously determined. Here, the appellate body found that the lay-off was *for* lack of work. The state need only determine for TEUC–A qualifying purposes if the lack of work was for a qualifying reason. A determination that the claimant was not laid off for one of the TEUC–A qualifying reasons does not contradict the appellate decision.

b. *Question:* States are required to determine if the claimant is an ''eligible individual'' for TEUC–A purposes. Making this determination involves determining if the claimant's base period employment used in the monetary determination for regular benefits meets the definition of ''qualifying employment'' which includes a determination of whether or not the claimant was separated for a qualifying reason. What section of law does the state cite in its nonmonetary determination and where are these determinations reported on the TEUC ETA 207?

Answer: The state should cite Section 4002(a) of Public Law 108–11. The nonmonetary determination is reportable as ''Miscellaneous'' in column 17, line 202 of the ETA 207 TEUC report. (See Items 14.c. and d.)

c. *Question:* Information provided by the employer indicates that the employment is ''qualifying employment,'' but the state has reason to doubt the accuracy of this information. Is the state required to accept the employer's statement?

Answer: No. However, the state must have credible information to refute the employer's assertion and to support a determination of TEUC–A ineligibility.

d. *Question:* State National Guard and Air National Guard members were activated by the state and deployed to guard the airports. Does their deactivation constitute a ''qualifying separation'' for TEUC–A purposes?

Answer: No. The deactivation of the State National Guard and Air National Guard was not due to a qualifying reason for separation, *i.e.*, layoffs due to a reduction in service by the certified air carrier due to the September 11 terrorist actions or security measures taken in response thereto; closure of an airport for the same reason(s); or the military conflict with Iraq.

e. *Question:* State National Guard and Air National Guard members were activated and deployed by the federal government during the military conflict with Iraq. Does their deactivation constitute a qualifying separation for TEUC–A purposes?

Answer: No. The federal government cannot be construed as a certified air carrier, a facility at an airport, or a supplier to a certified air carrier. Nor is the federal government a ''firm.'' These are the terms used in the TEUC–A provisions to describe the employer or type of employment that potentially constitute ''qualifying employment.'' Because military service to the government is not potentially ''qualifying employment,'' the reason for separation is not a potentially qualifying separation.

f. *Question:* Military reservists were activated and deployed due to the military conflict with Iraq. When they are unable to return to their previous employment with an air carrier, employment at a facility at an airport, or with an upstream producer or supplier for an air carrier for one of the qualifying reasons for separation, are they considered to be separated from ''qualifying employment'' for TEUC–A purposes?

Answer: Yes. Such reservists' inability to return to their prior employer/employment for a reason that satisfies the requirements of Section 4002(a)(2)(A) of P.L. 108–11, constitutes a ''qualifying separation'' from that employer. If that employment was used in the determination of eligibility for regular benefits, it constitutes ''qualifying employment'' for TEUC–A purposes.

g. *Question:* Would individuals who worked as travel agents or reservation agents who in whole or in part book passengers for certified air carrier flights be considered as ''suppliers'' or employees of ''suppliers'' for TEUC–A purposes?

Answer: Yes. Travel and reservation agents/agencies perform written or implied contract services for certified air carriers by booking passengers' flights. If travel agents did not book the certified air carrier's flights, the certified air carriers themselves would be required to book the flights. Thus, these agents supply services to certified air carriers. If their separation is for a qualifying reason, they have ''qualifying employment.''

8. Adjudication of Issues Arising Subsequent to ''Qualifying Employment''

a. *Question:* An ''eligible individual'' has had subsequent employment since the ''qualifying employment'' and is terminated from the subsequent employment for a disqualifying reason. Does this affect the individual's eligibility for TEUC–A?

Answer: Maybe. When an individual has been determined to be an ''eligible individual'' for TEUC–A purposes, that determination only means that the individual is entitled to a monetary determination using the formula that applies to TEUC–A. To receive TEUC–A benefits, the individual must still meet all other eligibility requirements. Therefore, if the claimant has been disqualified, no TEUC–A is payable until the claimant has requalified.

9. Interstate Benefits/Combined Wage/ICON Applications

a. *Question:* How will ''eligible individuals'' be identified by the paying state if potentially ''qualifying employment'' on a combined-wage claim is from a transferring state?

Answer: If the claimant responds to a notice of potential eligibility to TEUC–A, the request for information will be sent directly to the employer in the other state. If the employer is an obvious ''large employer'' (such as a certified air carrier) that may have already provided the transferring state with information about the claimant, the paying state may instead arrange to check with the transferring state.

b. *Question:* A claimant has employment in more than one state and has base period employment that would satisfy the definition of ''qualifying employment.'' However, it was not used in the monetary determination of the regular claim because the claimant was eligible for the maximum benefit amount payable under the liable state's law without filing a combined wage claim (CWC). Does this claimant have ''qualifying employment'' for TEUC–A purposes?

Answer: Under the TEUC–A law, an ''eligible individual'' is one whose eligibility for TEUC ''is or would be based on the exhaustion of regular compensation under state law, entitlement to which was based in whole or in part on qualifying employment performed during such individual's base period.'' The language ''would be'' permits consideration of employment, for purposes of determining qualifying employment, that the individual chose to exclude from base period employment under a CWC.

10. TEUC–A Eligibility for Individual Filing From Canada

a. *Question:* May individuals filing from Canada qualify for TEUC–A?

Answer: Yes, if they meet the definition of an ''eligible individual.''

11. TEUC–A Effect on Trade Readjustment Assistance (TRA)

a. *Question:* Original TEUC benefits were deducted from claimants' ''basic'' TRA entitlement. Is TEUC-A also deductible from TRA entitlement?

Answer: Yes. The same rules apply.

12. Short-Time Compensation Program

a. *Question:* Employers opted to participate in the state's short-time compensation (or worksharing program) or otherwise reduced workers' hours in lieu of lay offs. Would these situations be considered ''qualifying separations'' for TEUC–A purposes?

Answer: Yes, if the reduction in work hours or weeks by a qualifying employer was caused by one of the three qualifying reasons.

13. TEUC–A Benefit Funding

a. *Question:* Will TEUC–A be funded separately from TEUC?

Answer: No.

14. Reporting Requirements

a. *Question:* How will TEUC–A and AX claims and benefit activity be reported?

Answer: See the reporting instructions in UIPL 30–02, Change 2, Item 11.

b. *Question:* Must TEUC–A benefit activity be reported separately from other TEUC activity?

Answer: No. TEUC, TEUC–X, TEUC–A and TEUC–AX are all reported together on the TEUC reports. However, states are to report a breakout in the comments section of the ETA 5159 of the number of TEUC–A determinations and redeterminations. See reporting instructions in UIPL No. 30–02, Change 2, Item 11.

c. *Question:* Will nonmonetary determinations of ''eligible individuals'' for TEUC–A be reported on the ETA 207 as countable determinations?

Answer: Yes.

d. *Question:* Does the outcome of the ''eligible individual'' nonmonetary determination (eligible/not eligible) affect what type of issue is reported on the ETA TEUC–A 207 and would it be reported the same on all reports?

Answer: Whether or not the claimant is an ''eligible individual'' is a nonseparation nonmonetary determination reportable in the miscellaneous column of the TEUC–A ETA 207 regardless of the outcome of the determination. The TEUC–A ETA 207 is the *only* report where TEUC nonmonetary determinations will be reported.

e. *Question:* Is a separate SF–269 required for reporting TEUC–A administrative costs?

Answer: No. There is only one TEUC program. The TEUC–A and AX costs are included on the SF 269 for the TEUC program.

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BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which ae determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 27a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in teh localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to teh issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effectibve date as prescribed in that section, because the necessity to issue current construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or government agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit infomration for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Supersedeas Decisions to General Wage Determination Decisions

The number of decisions being superseded and their date of notice in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the number of decisions being superseded.

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Mississippi

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South Carolina

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General Wage Determination Publication

General Wage Determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *http://www.access.gpo.gov/davisbacon.* They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov*) of the National Technical Information Service (NTIS) of the Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help Desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 14th day of May 7, 2003.

Carl J. Polesky,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 03–12713 Filed 6–12–03; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Notice of Meeting

Notice is hereby given of the date and location of the next meeting of the National Advisory Committee on Occupational Safety and Health (NACOSH), established under Section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act. NACOSH will hold a meeting on July 9 and 10, in Room N3437 (A–C), U.S. Department of Labor, located at 200 Constitution Avenue NW., Washington, DC. The meeting is open to the public and will begin at 8:30 a.m. on July 9 until approximately 4:30 p.m. The meeting will reconvene on July 10 at 8:30 a.m. and end at approximately 12 noon.

Agenda items will include updates of activities of both the Occupational Safety and Health Administration's (OSHA) and the National Institute for Occupational Safety and Health (NIOSH), as well as reports from three workgroups. Workgroups will meet during the afternoon of July 9. Workgroup sessions will be open to the public from 1 p.m. until approximately 2 p.m. Presentations will also be made on the following subjects: the National Personal Protective Technology Laboratory, OSHA's Targeting Program, Hispanic and Immigrant Workers, and Information Dissemination.

Written data, views or comments for consideration by the committee may be submitted, preferably with 20 copies, to Vivian Allen at the address provided below. Any such submissions received prior to the meeting will be provided to the members of the committee and will be included in the record of the meeting. Because of the need to cover a wide variety of subjects in a short period of time, there is usually insufficient time on the agenda for members of the public to address the committee orally. However, any such requests will be considered by the Chair who will determine whether or not time permits. Any request to make an oral presentation should state the amount of time desired, the capacity in which the person would appear, and a brief outline of the content of the presentation. Individuals with disabilities who need special accommodations should contact Veneta Chatmon (phone: 202–693–1912; fax 202–693–1634) one week before the meeting.

An official record of the meeting will be available for public inspection in the OSHA Technical Data Center (TDC) located in Room N2625 at the Department of Labor Building (202–693–2350). For additional information contact: Vivian Allen, Occupational Safety and Health Administration (OSHA); Room N3641, 200 Constitution Avenue NW., Washington, DC, 20210 (phone: 202–693–1935; fax: 202–693–1641; e-mail *Allen.Vivian@dol.gov*); or

check the National Advisory Committee on Occupational Safety and Health information pages located at *http://www.osha.gov.*

Signed at Washington, DC this 9th day of June 2003.

John L. Henshaw,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 03–14933 Filed 6–12–03; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[03–067]

Notice of Information Collection Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection under OMB review.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: NASA Small Business Innovation Research Commercial Metrics.

OMB Number: 2700–0095.

Type of review: Revision.

Need and Uses: This collection is used to assess the contributions of NASA funded Small Business Innovation Research (SBIR) technology.

Affected Public: Business or other for-profit.

Number of Respondents: 1000.

Annual Responses: 200.

Hours Per Request: 1.

Annual Burden Hours: 200.

Frequency of Report: Every three years.

Dated: June 9, 2003.

Patricia L. Dunnington,

Chief Information Officer, Office of the Administrator.

[FR Doc. 03–14983 Filed 6–12–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[03–068]

Notice of Information Collection Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Mr. Eric Raynor, Code QS, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: NASA Safety Reporting System.

OMB Number: 2700–0063.

Type of review: Revision.

Need and Uses: This collection provides a means by which NASA employees and contractors can voluntarily and confidentially report any safety concerns or hazards pertaining to NASA programs, projects, or operations.

Affected Public: Federal Government; business or other for-profit.

Number of Respondents: 75.

Responses Per Respondent: 1.

Annual Responses: 75.

Hours Per Request: 15 min.

Annual Burden Hours: 19.

Frequency of Report: As needed.

Dated: June 9, 2003.

Patricia L. Dunnington,

Chief Information Officer, Office of the Administrator.

[FR Doc. 03–14984 Filed 6–12–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice of Meeting

SUMMARY: NASA will conduct an open forum to discuss the Agency's transformation activities and initiatives. This is a chance for members of NASA's Senior Management to discuss key Agency activities with senior level corporate and operations officials and to provide an opportunity for interaction. The forum is open to all companies currently doing business or that are considering doing business with NASA.

Note: This is not a meeting about ''how to do business with NASA'' for new firms, nor will it focus on small businesses or specific contracting opportunities. Position papers are not being solicited.

DATES: Thursday, June 26, 2003, from 9 to 11:30 a.m.

ADDRESSES: The meeting will be held at the NASA Headquarters Auditorium, 300 E Street, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Yolande Harden, NASA Headquarters, Code HK, Washington, DC 20546, (202) 358–1279, or email: *yharden@nasa.gov.* Auditorium capacity is limited to 236 persons. To ensure adequate seating, a maximum of two representatives per firm is requested. Registration is requested. Interested parties can register at the following Web site: *http://www.hq.nasa.gov/office/procurement/hqforum.html.*

SUPPLEMENTARY INFORMATION:

Admittance: Admittance will be on a first-come, first-served basis. Doors will open a half-hour prior to the presentation.

Format: Remarks will be made by the Deputy Administrator, Chief of Staff, Chief Financial Officer, Deputy General Counsel, and the Assistant Administrator for Procurement followed by a question and answer period.

Key topics of discussion include:

Agency Strategic Plan
Overview—changes in the Agency since December 2000
Agency Transformation/Initiatives
- President's Management Agenda
- One NASA
- Full Cost
- Integrated Financial Management
- Information Technology
- Human Capital
- Program/Project Management

Ethics/Code of Conduct
Procurement Activities
- Competitive Sourcing/FAIR Act Inventory
- A–76

Safety

Acquisition Planning/Early Industry Involvement

NASA Shared Services Center

Small Business

Incentives

Initiatives

Property Issues/Reporting

Tom Luedtke,

Assistant Administrator for Procurement.

[FR Doc. 03–14936 Filed 6–12–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (03–064)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Evergreen Performance & Compliance, Inc., of Ohio, has applied for an exclusive license to practice the invention described and claimed in NASA Case No. KSC–12540 entitled ''High Performance Immobilized Liquid Membranes for Carbon Dioxide Separations,'' which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of an exclusive license to Evergreen Performance & Compliance, Inc. should be sent to Assistant Chief Counsel/Patent Counsel, NASA, Mail Code: CC–A, Office of the Chief Counsel, John F. Kennedy Space Center, Kennedy Space Center, FL 32899.

DATES: Responses to this Notice must be received within June 30, 2003.

FOR FURTHER INFORMATION CONTACT: Randall M. Heald, Patent Counsel/ Assistant Chief Counsel, NASA, Office of the Chief Counsel, John F. Kennedy Space Center, Mail Code: CC–A, Kennedy Space Center, FL 32899, telephone (321) 867–7214.

Dated: May 30, 2003.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 03–14938 Filed 6–12–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (03–066)]

Notice of Prospective Patent License.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that HyPerComp Engineering, Inc, of Brigham City, Utah, has applied for a partially exclusive license to practice the inventions disclosed in NASA Case No. MFS–31727–1 entitled ''Impact And Fire Resistant Coating For Pressure Vessels,'' NASA Case No. MFS–31838–1 entitled ''Improved Pressure Vessel Impact Resistance Utilizing Filament Wound Hybrid Fibers,'' and MFS–31841–1 entitled ''Composite Over-Wrap Material For Impact Resistant Pressure Vessels At Low Temperature.'' HyPerComp Engineering, Inc. may practice the invention in the field of use to design, manufacture and sell specialty high-pressure aluminum lined filament wound composite over-wrapped vessels. Written objections to the prospective grant of a license should be sent to Mr. James J. McGroary, Patent Counsel/LS01, (Mareb shall Space Flight Center, Huntsville, AL 35812. NASA has not yet made a determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

DATES: Responses to this notice must be received by June 30, 2003.

FOR FURTHER INFORMATION CONTACT: Sammy A. Nabors, Technology Transfer Department/CD30, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–5226.

Dated: May 30, 2003.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 03–14940 Filed 6–12–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (03–065)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Intellimotion, Inc., of Moffett Field, CA, has applied for an exclusive license to practice the invention described and claimed in United States Patent No. 6,167,097 and 6,278,965, ''Automated Traffic Management System and Method,'' and ''Real-Time Surface Traffic Advisor,'' which are both assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to NASA Ames Research Center.

DATES: Responses to this notice must be received by June 30, 2003.

FOR FURTHER INFORMATION CONTACT: Rob M. Padilla, Patent Counsel, NASA Ames Research Center, Mail Stop 202A–4, Moffett Field, CA 94035–1000, telephone (650) 604–5104.

Dated: May 30, 2003.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 03–14939 Filed 6–12–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (03–063)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Phoenix Systems International, Inc. of McDonald, OH, has applied for an exclusive license to practice the invention described and claimed in NASA Case No. KSC–12518 entitled ''Hydrogen Peroxide Catalytic Decomposition,'' which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of an exclusive license to Phoenix Systems International, Inc. should be sent to Assistant Chief Counsel/Patent Counsel, NASA, Mail Code: CC–A, Office of the Chief Counsel, John F. Kennedy Space Center, Kennedy Space Center, FL 32899.

DATES: Responses to this notice must be received within June 30, 2003.

FOR FURTHER INFORMATION CONTACT: Randall M. Heald, Patent Counsel/ Assistant Chief Counsel, NASA, Office of the Chief Counsel, John F. Kennedy Space Center, Mail Code: CC–A, Kennedy Space Center, FL 32899, telephone (321) 867–7214.

Dated: June 6, 2003.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 03–14937 Filed 6–12–03; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 143rd meeting on June 24–25, 2003, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The schedule for this meeting is as follows:

Tuesday, June 24, 2003

10:30 a.m.–10:40 a.m.: Opening Statement (Open)—The Chairman will open the meeting with brief opening remarks, outline the topics to be discussed, and indicate items of interest.

10:40 a.m.–12 Noon: DOE Strategy for Resolving Key Technical Issue (KTI) Agreements (Open)—The Committee will be briefed by DOE representatives on their approach to grouping and resolving all KTI Agreements for the Yucca Mountain Project, including status and path forward.

1 p.m.–2:30 p.m.: Use of Risk Information as Basis for DOE/NRC Agreement Closure (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC Office of Nuclear Materials Safety and Safeguards (NMSS) and DOE representatives on the use of risk information as the basis for closure of technical agreements for the Yucca Mountain Project.

2:45 p.m.–4:15 p.m.: NRC Staff Report on the Risk Significance Ranking of the 293 KTI Agreements (Open)—The Committee will hear an update by the NRC/NMSS staff on how the 293 KTI agreements were ranked into high, medium, and low risk significance.

4:15 p.m.–6 p.m.: Proposed ACNW Reports (Open)—The Committee will discuss proposed ACNW reports on matters considered during this meeting, as well as the proposed ACNW report on Status of KTI Agreement Resolution for the Proposed Yucca Mountain High Level Waste Repository (Tentative).

Wednesday, June 25, 2003

8:30 a.m.–8:35 a.m.: Opening Statement (Open)—The Chairman will make opening remarks regarding the conduct of today's sessions.

8:35 a.m.–10:30 a.m.: Spent Fuel Characterization Project (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC Office of Nuclear Regulatory Research (RES) on a project involving spent fuel loaded in 1985 in a dry cask and opened and inspected in 1999.

10:45 a.m.–11:45 a.m.: Update on Waste Management Related Research (Open)—The Committee will receive an update from NRC/RES staff on the status of the radionuclide transport research as well as other waste-related research activities.

1 p.m.–1:30 p.m.: Plans for Performance Confirmation Working Group (Open)—The Committee will discuss the final agenda, and plans for the Performance Confirmation Working Group scheduled for the next (144th) meeting.

1:30 p.m.–2 p.m.: 2003–04 ACNW Research Report (Open)—An outline and potential plan for the next ACNW Research Report will be discussed.

2 p.m.–2:15 p.m.: Election of Officers (Open)—The members will nominate and elect members to the positions of Chairman and Vice Chairman for the period July 1, 2003 through June 30, 2004.

2:30 p.m.–5:45 p.m.: Proposed ACNW Reports (Open)—The Committee will continue to discuss proposed ACNW reports.

5:45 p.m.–6 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on October 11, 2002 (67 FR 63459). In accordance with these procedures, oral or written statements may be presented by members of the public. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Persons desiring to make oral statements should notify Mr. Howard J. Larson, ACNW (Telephone 301/415–6805), between 7:30 a.m. and 4 p.m. ET, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for taking pictures may be obtained by contacting the ACNW office prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Mr. Howard J. Larson as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by contacting Mr. Howard J. Larson.

ACNW meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/* (ACRS & ACNW Mtg schedules/agendas).

Videoteleconferencing service is available for observing open sessions of ACNW meetings. Those wishing to use this service for observing ACNW meetings should contact Mr. Theron Brown, ACNW Audiovisual Technician (301/415–8066), between 7:30 a.m. and 3:45 p.m. ET, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: June 9, 2003.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 03–14959 Filed 6–12–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos: (Redacted), License Nos: (Redacted), EA–XX–XXX (Redacted)]

In the Matter of All Panoramic and Underwater Irradiators Authorized to Possess Greater than 370 TerraBecquerels (10,000 Curies) of Byproduct Material in the Form of Sealed Sources; Order Imposing Compensatory Measures (Effective Immediately)

I

The Licensees identified in Attachment 1 to this Order hold licenses issued in accordance with the Atomic Energy Act of 1954 and 10 CFR part 36 or comparable Agreement State regulations by the U.S. Nuclear Regulatory Commission (NRC or Commission) or an Agreement State authorizing possession of greater than 370 TerraBecquerels (TBq) [10,000 curies (Ci)] of byproduct material in the form of sealed sources either in panoramic irradiators that have dry or wet storage of the sealed sources or in underwater irradiators in which both the source and the product being irradiated are under water. Commission regulations at 10 CFR 20.1801 or equivalent Agreement State regulations, require Licensees to secure, from unauthorized removal or access, licensed materials that are stored in controlled or unrestricted areas. Commission regulations at 10 CFR 20.1802 or equivalent Agreement States regulations, require Licensees to control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage.

II

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and Washington, DC, utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its Licensees in order to strengthen Licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. The Commission has also communicated with other Federal, State and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission has been conducting a review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and license requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain compensatory measures are required to be implemented by Licensees as prudent, measures to address the current threat environment. Therefore, the Commission is imposing the requirements, as set forth in Attachment 2 on all Licensees identified in Attachment 1 of this Order [1] who currently possess, or have near term plans to possess, greater than 370 TBq (10,000 Ci) of byproduct material in the form of sealed sources. These requirements, which supplement existing regulatory requirements, will provide the Commission with reasonable assurance that the public health and safety and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect until the Commission determines otherwise.

The Commission recognizes that Licensees may have already initiated many measures set forth in Attachment 2 to this Order in response to previously issued advisories or on their own. It is also recognized that some measures may not be possible or necessary at some sites, or may need to be tailored to accommodate the Licensees' specific circumstances to achieve the intended objectives and avoid any unforeseen effect on the safe use and storage of the sealed sources.

Although the additional security measures implemented by the Licensees in response to the Safeguards and Threat Advisories have been adequate to provide reasonable assurance of adequate protection of public health and safety, the Commission concludes that the security measures must be embodied in an Order consistent with the established regulatory framework. The security measures contained in Attachment 2 of this Order contain safeguards information and will not be released to the public. The Commission has broad statutory authority to protect and prohibit the unauthorized disclosure of safeguards information. Section 147 of the Atomic Energy Act of 1954, as amended, grants the Commission explicit authority to ''issue such orders, as necessary to prohibit the unauthorized disclosure of safeguards information * * *.'' This authority extends to information concerning special nuclear material, source material, and byproduct material, as well as production and utilization facilities. Licensees must ensure proper handling and protection of safeguards information to avoid unauthorized disclosure in accordance with the specific requirements for the protection of safeguards information contained in Attachment 3. The Commission hereby provides notice that it intends to treat all violations of the requirements contained in Attachment 3, applicable to the handling and unauthorized disclosure of safeguards information as serious breaches of adequate protection of the public health and safety and the common defense and security of the United States. Access to safeguards information is limited to those persons who have established the need to know the information, and are considered to be trustworthy and reliable. A need to know means a determination by a person having responsibility for protecting Safeguards Information that a proposed recipient's access to Safeguards Information is necessary in the performance of official, contractual, or licensee duties of employment. Licensees must ensure that they develop, maintain and implement strict policies and procedures for the proper handling and unauthorized disclosure of safeguards information in accordance with the requirements in Attachment 3. All licensees must ensure that all contractors whose employees may have access to safeguards information either adhere to the licensee's policies and procedures on safeguards information or develop, maintain and implement their own acceptable policies and procedures, but the licensees remain responsible for the conduct of their contractors. The policies and procedures necessary to ensure compliance with applicable requirements contained in Attachment 3 must address, at a minimum, the following: the general performance requirement that each person who produces, receives, or acquires Safeguards Information shall ensure that Safeguards Information is protected against unauthorized disclosure; protection of safeguards information at fixed sites, in use and in storage, and while in transit; inspections, audits and evaluations; correspondence containing safeguards information; access to safeguards information; preparation, marking, reproduction and destruction of documents; external transmission of documents; use of automatic data

[1] Attachment 1 contains OFFICIAL USE ONLY sensitive information and Attachment 2 contains SAFEGUARDS INFORMATION and will not be released to the public.

processing systems; and removal of the Safeguards Information category.

In order to provide assurance that the Licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, all Licensees who hold licenses issued by the U.S. Nuclear Regulatory Commission or an Agreement State authorizing possession greater than 370 TBq (10,000 Ci) of byproduct material in the form of sealed sources in a panoramic or underwater irradiator shall implement the requirements identified in Attachment 2 to this Order. In addition, pursuant to 10 CFR § 2.202, I find that in light of the common defense and security matters identified above, which warrant the issuance of this Order, the public health, safety and interest require that this Order be effective immediately.

III

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR part 30, and 10 CFR part 36, *it is hereby ordered,* effective immediately, that all licensees identified in Attachment 1 to this order shall comply with the requirements of this order as follows:

A. All licensees shall, notwithstanding the provisions of any Commission or Agreement State regulation or license to the contrary, comply with the requirements described in Attachment 2 to this Order. The licensee shall immediately start implementation of the requirements in Attachment 2 to the Order and shall complete implementation by December 3, 2003 [180 days from date of this Order], or the first day that greater than 370 TBq (10,000 Ci) of byproduct material in the form of sealed sources is possessed, which ever is later.

B. 1. The Licensee shall, within twenty (20) days of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements described in Attachment 2, (2) if compliance with any of the requirements is unnecessary in its specific circumstances, or (3) if implementation of any of the requirements would cause the Licensee to be in violation of the provisions of any Commission or Agreement State regulation or its license. The notification shall provide the Licensee's justification for seeking relief from or variation of any specific requirement.

B. If the Licensee considers that implementation of any of the requirements described in Attachment 2 to this Order would adversely impact safe operation of the facility, the Licensee must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachment 2 requirement in question, or a schedule for modifying the facility to address the adverse safety condition. If neither approach is appropriate, the Licensee must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B.1.

C. 1. The Licensee shall, within twenty (20) days of the date of this Order, submit to the Commission a schedule for completion of each requirement described in Attachment 2.

2. The Licensee shall report to the Commission when they have achieved full compliance with the requirements described in Attachment 2.

D. Notwithstanding any provisions of the Commission's or Agreement State's regulations to the contrary, all measures implemented or actions taken in response to this order shall be maintained until the Commission determines otherwise.

Licensee response to Conditions B.1, B.2, C.1, and C.2 above shall be submitted to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. In addition, Licensee submittals that contain specific physical protection or security information considered to be safeguards information shall be put in a separate enclosure or attachment and, marked as ''SAFEGUARDS INFORMATION—MODIFIED HANDLING'' and mailed (no electronic transmittals *i.e.,* no e-mail or FAX) to the NRC in accordance with Attachment 3.

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

IV

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555–0001. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Licensee if the answer or hearing request is by a person other than the Licensee. Because of possible disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to (301) 415–1101 or by e-mail to *hearingdocket@nrc.gov* and also to the Office of the General Counsel either by means of facsimile transmission to (301) 415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a

hearing, the provisions specified in Section III above shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 6th day of June, 2003.

For the Nuclear Regulatory Commission

Margaret V. Federline,

Deputy Director, Office of Nuclear Material Safety and Safeguards.

Attachments 1 and 2—Redacted
Attachment 3—Modified Handling Requirements for the Protection of Certain Safeguards Information (SGI–M)

General Requirement

Information and material that the U.S. Nuclear Regulatory Commission (NRC) determines are safeguards information must be protected from unauthorized disclosure. In order to distinguish information needing modified protection requirements from the safeguards information for reactors and fuel cycle facilities that require a higher level of protection, the term ''Safeguards Information-Modified Handling'' (SGI–M) is being used as the distinguishing marking for certain materials licensees. Each person who produces, receives, or acquires SGI–M shall ensure that it is protected against unauthorized disclosure. To meet this requirement, licensees and persons shall establish and maintain an information protection system that includes the measures specified below. Information protection procedures employed by state and local police forces are deemed to meet these requirements.

Persons Subject to These Requirements

Any person, whether or not a licensee of the NRC, who produces, receives, or acquires SGI–M is subject to the requirements (and sanctions) of this document. Firms and their employees that supply services or equipment to materials licensees would fall under this requirement if they possess facility SGI-M. A licensee must inform contractors and suppliers of the existence of these requirements and the need for proper protection. (*See* more under Conditions for Access.)

State or local police units who have access to SGI-M are also subject to these requirements. However, these organizations are deemed to have adequate information protection systems. The conditions for transfer of information to a third party, *i.e.*, need-to-know, would still apply to the police organization as would sanctions for unlawful disclosure. Again, it would be prudent for licensees who have arrangements with local police to advise them of the existence of these requirements.

Criminal and Civil Sanctions

The Atomic Energy Act of 1954, as amended, explicitly provides that any person, ''whether or not a licensee of the Commission, who violates any regulations adopted under this section shall be subject to the civil monetary penalties of section 234 of this Act.'' Section 147a. of the Act. Furthermore, willful violation of any regulation or order governing safeguards information is a felony subject to criminal penalties in the form of fines or imprisonment, or both. (*See* sections 147b. and 223 of the Act.)

Conditions for Access

Access to SGI–M beyond the initial recipients of the order will be governed by the background check requirements imposed by the order. Access to SGI–M by licensee employees, agents, or contractors must include both an appropriate need-to-know determination by the licensee, as well as a determination concerning the trustworthiness of individuals having access to the information. Employees of an organization affiliated with the licensee's company, *e.g.*, a parent company, may be considered as employees of the licensee for access purposes.

Need-to-Know

Need-to-know is defined as a determination by a person having responsibility for protecting SGI–M that a proposed recipient's access to SGI–M is necessary in the performance of official, contractual, or licensee duties of employment. The recipient should be made aware that the information is SGI–M and those having access to it are subject to these requirements as well as criminal and civil sanctions for mishandling the information.

Occupational Groups

Dissemination of SGI–M is limited to individuals who have an established need-to-know and who are members of certain occupational groups. These occupational groups are:

1. An employee, agent, or contractor of an applicant, a licensee, the Commission, or the United States Government;

2. A member of a duly authorized committee of the Congress;

3. The Governor of a State or his designated representative;

4. A representative of the International Atomic Energy Agency (IAEA) engaged in activities associated with the US/IAEA Safeguards Agreement who has been certified by the NRC;

5. A member of a state or local law enforcement authority that is responsible for responding to requests for assistance during safeguards emergencies;

6. A person to whom disclosure is ordered pursuant to 10 CFR 2.744(e); or

7. State Radiation Control Program Directors (and State Homeland Security Directors) or their designees.

In a generic sense, the individuals described above in (II) through (VII) are considered to be trustworthy by virtue of their employment status. For non-governmental individuals in group (1) above, a determination of reliability and trustworthiness is required. Discretion must be exercised in granting access to these individuals. If there is any indication that the recipient would be unwilling or unable to provide proper protection for the SGI–M, they are not authorized to receive SGI–M.

Information Considered for Safeguards Information Designation

Information deemed SGI–M is information the disclosure of which could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of materials or facilities subject to NRC jurisdiction. SGI–M identifies safeguards information which is subject to these requirements. These requirements are necessary in order to protect quantities of nuclear material significant to the health and safety of the public or common defense and security.

The overall measure for consideration of SGI–M is the usefulness of the information (security or otherwise) to an adversary in planning or attempting a malevolent act. The specificity of the information increases the likelihood that it will be useful to an adversary.

Protection While in Use

While in use, SGI–M shall be under the control of an authorized individual. This requirement is satisfied if the SGI–M is attended by an authorized individual even though the information is in fact not constantly being used. SGI–M, therefore, within alarm stations, continuously manned guard posts or

ready rooms need not be locked in file drawers or storage containers.

Under certain conditions the general control exercised over security zones or areas would be considered to meet this requirement. The primary consideration is limiting access to those who have a need-to-know. Some examples would be:

Alarm stations, guard posts and guard ready rooms;

Engineering or drafting areas if visitors are escorted and information is not clearly visible;

Plant maintenance areas if access is restricted and information is not clearly visible; and

Administrative offices (*e.g.*, central records or purchasing) if visitors are escorted and information is not clearly visible.

Protection While in Storage

While unattended, SGI–M shall be stored in a locked file drawer or container. Knowledge of lock combinations or access to keys protecting SGI–M shall be limited to a minimum number of personnel for operating purposes who have a ''need-to-know'' and are otherwise authorized access to SGI–M in accordance with these requirements. Access to lock combinations or keys shall be strictly controlled so as to prevent disclosure to an unauthorized individual.

Transportation of Documents and Other Matter

Documents containing SGI–M when transmitted outside an authorized place of use or storage shall be enclosed in two sealed envelopes or wrappers. The inner envelope or wrapper shall contain the name and address of the intended recipient, and be marked both sides, top and bottom with the words ''Safeguards Information—Modified Handling.'' The outer envelope or wrapper must be addressed to the intended recipient, must contain the address of the sender, and must not bear any markings or indication that the document contains SGI–M.

SGI–M may be transported by any commercial delivery company that provides nation-wide overnight service with computer tracking features, U.S. first class, registered, express, or certified mail, or by any individual authorized access pursuant to these requirements.

Within a facility, SGI–M may be transmitted using a single opaque envelope. It may also be transmitted within a facility without single or double wrapping, provided adequate measures are taken to protect the material against unauthorized disclosure. Individuals transporting SGI–M should retain the documents in their personal possession at all times or ensure that the information is appropriately wrapped and also secured to preclude compromise by an unauthorized individual.

Preparation and Marking of Documents

While the NRC is the sole authority for determining what specific information may be designated as ''SGI–M,'' originators of documents are responsible for determining whether those documents contain such information. Each document or other matter that contains SGI–M shall be marked ''Safeguards Information—Modified Handling'' in a conspicuous manner on the top and bottom of the first page to indicate the presence of protected information. The first page of the document must also contain (i) the name, title, and organization of the individual authorized to make a SGI–M determination, and who has determined that the document contains SGI–M, (ii) the date the document was originated or the determination made, (iii) an indication that the document contains SGI–M, and (iv) an indication that unauthorized disclosure would be subject to civil and criminal sanctions. Each additional page shall be marked in a conspicuous fashion at the top and bottom with letters denoting ''Safeguards Information—Modified Handling.''

In additional to the ''Safeguards Information—Modified Handling'' markings at the top and bottom of page, transmittal letters or memoranda which do not in themselves contain SGI–M shall be marked to indicate that attachments or enclosures contain SGI–M but that the transmittal does not (*e.g.*, ''When separated from SGI–M enclosure(s), this document is decontrolled'').

In addition to the information required on the face of the document, each item of correspondence that contains SGI–M shall, by marking or other means, clearly indicate which portions (*e.g.*, paragraphs, pages, or appendices) contain SGI–M and which do not. Portion marking is not required for physical security and safeguards contingency plans.

All documents or other matter containing SGI–M in use or storage shall be marked in accordance with these requirements. A specific exception is provided for documents in the possession of contractors and agents of licensees that were produced more than one year prior to the effective date of the order. Such documents need not be marked unless they are removed from file drawers or containers. The same exception applies to old documents stored away from the facility in central files or corporation headquarters.

Since information protection procedures employed by state and local police forces are deemed to meet NRC requirements, documents in the possession of these agencies need not be marked as set forth in this document.

Removal From SGI–M Category

Documents containing SGI–M shall be removed from the SGI–M category (decontrolled) only after the NRC determines that the information no longer meets the criteria of SGI–M. Licensees have the authority to make determinations that specific documents which they created no longer contain SGI–M information and may be decontrolled. Consideration must be exercised to ensure that any document decontrolled shall not disclose SGI–M in some other form or be combined with other unprotected information to disclose SGI–M. The authority to determine that a document may be decontrolled may be exercised only by, or with the permission of, the individual (or office) who made the original determination. The document should indicate the name and organization of the individual removing the document from the SGI–M category and the date of the removal. Other persons who have the document in their possession should be notified of the decontrolling of the document.

Reproduction of Matter Containing SGI–M

SGI–M may be reproduced to the minimum extent necessary consistent with need without permission of the originator. Newer digital copiers which scan and retain images of documents represent a potential security concern. If the copier is retaining SGI–M information in memory, the copier cannot be connected to a network. It should also be placed in a location that is cleared and controlled for the authorized processing of SGI–M information. Different copiers have different capabilities, including some which come with features that allow the memory to be erased. Each copier would have to be examined from a physical security perspective.

Use of Automatic Data Processing (ADP) Systems

SGI–M may be processed or produced on an ADP system provided that the system is assigned to the licensee's or contractor's facility and requires the use of an entry code/password for access to stored information. Licensees are

encouraged to process this information in a computing environment that has adequate computer security controls in place to prevent unauthorized access to the information. An ADP system is defined here as a data processing system having the capability of long term storage of SGI–M. Word processors such as typewriters are not subject to the requirements as long as they do not transmit information off-site. (**Note:** if SGI–M is produced on a typewriter, the ribbon must be removed and stored in the same manner as other SGI–M information or media.) The basic objective of these restrictions is to prevent access and retrieval of stored SGI–M by unauthorized individuals, particularly from remote terminals. Specific files containing SGI–M will be password protected to preclude access by an unauthorized individual. The National Institute of Standards and Technology (NIST) maintains a listing of all validated encryption systems at *http://csrc.nist.gov/cryptval/140-1/1401val.htm.* SGI–M files may be transmitted over a network if the file is encrypted. In such cases, the licensee will select a commercially available encryption system that NIST has validated as conforming to Federal Information Processing Standards (FIPS). SGI–M files shall be properly labeled as ''Safeguards Information-Modified Handling'' and saved to removable media and stored in a locked file drawer or cabinet.

Telecommunications

SGI–M may not be transmitted by unprotected telecommunications circuits except under emergency or extraordinary conditions. For the purpose of this requirement, emergency or extraordinary conditions are defined as any circumstances that require immediate communications in order to report, summon assistance for, or respond to a security event (or an event that has potential security significance).

This restriction applies to telephone, telegraph, teletype, facsimile circuits, and to radio. Routine telephone or radio transmission between site security personnel, or between the site and local police, should be limited to message formats or codes that do not disclose facility security features or response procedures. Similarly, call-ins during transport should not disclose information useful to a potential adversary. Infrequent or non-repetitive telephone conversations regarding a physical security plan or program are permitted provided that the discussion is general in nature.

Individuals should use care when discussing SGI–M at meetings or in the presence of others to insure that the conversation is not overheard by persons not authorized access. Transcripts, tapes or minutes of meetings or hearings that contain SGI–M should be marked and protected in accordance with these requirements.

Destruction

Documents containing SGI–M should be destroyed when no longer needed. They may be destroyed by tearing into small pieces, burning, shredding or any other method that precludes reconstruction by means available to the public at large. Piece sizes one half inch or smaller composed of several pages or documents and thoroughly mixed would be considered completely destroyed.

[FR Doc. 03–14961 Filed 6–12–03; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request for Approval of a Second Amendment to Special Withdrawal Liability Rules for International Longshoremen's and Warehousemen's Union-Pacific Maritime Association Pension Plan

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: The International Longshoremen's and Warehousemen's Union-Pacific Maritime Association Pension Plan has asked the Pension Benefit Guaranty Corporation (''PBGC'') to review and approve a second amendment to a special withdrawal liability rule that PBGC approved in initial and amended form in 1984 and 1998. See Approval of Special Withdrawal Liability Rules (''Notice of Approval''), 49 FR 6043 (February 16, 1984) and Notice of Approval at 63 FR 27774 (May 20, 1998). Under section 4203(f) of the Employee Retirement Income Security Act of 1974, as amended (''ERISA''), PBGC may prescribe regulations under which plans in industries other than the construction or entertainment industries may be amended to provide for special withdrawal liability rules, and PBGC has prescribed such regulations at 29 CFR Part 4203. The regulations provide that PBGC approval is required for a plan amendment establishing special withdrawal liability rules, as well any modification to a previously approved plan amendment. This notice describes the amendment and invites any interested person to submit written comments about it to PBGC.

DATES: Comments must be submitted on or before July 28, 2003.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or delivered to Suite 340 at the same address. Comments also may be sent by Internet e-mail to *reg.comments@pbgc.gov.* The PBGC will make the comments received available on its Web site, *http://www.pbgc.gov.* Copies of the comments and the request for approval may be obtained by writing the PBGC's Communications and Public Affairs Department (CPAD) at Suite 240 at the above address or by visiting or calling CPAD during normal business hours (202–325–4040).

FOR FURTHER INFORMATION CONTACT: Gennice D. Brickhouse, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026; 202–326–4020. (For TTY/TDD users, call the Federal Relay Service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4020).

SUPPLEMENTARY INFORMATION:

Background

Under section 4201 of ERISA, an employer that withdraws from a multiemployer pension plan incurs liability for a share of the plan's unfunded vested benefits. Section 4203(a) of ERISA provides that a complete withdrawal from a multiemployer plan occurs if an employer either (1) Permanently ceases to have an obligation to contribute under the plan; or (2) permanently ceases all covered operations under the plan. Section 4205(a)(2) of ERISA states that a partial withdrawal occurs if an employer either: (1) Permanently ceases to have an obligation to contribute under one or more but fewer than all collective bargaining agreements under which the employer has been obligated to contribute under the plan, while continuing to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required or transfers such work to another location; or (2) permanently ceases to have an obligation to contribute under the plan for work performed at one or more but fewer than all of its facilities, while continuing to perform work at the facility of the type for which the obligation to contribute ceased. Under section 4205(a)(1), a partial withdrawal will also occur if the employer reduces its contribution base units—the factors

that determine plan contributions, such as hours worked by employees—by seventy percent or more for three consecutive plan years.

A complete or partial withdrawal of an employer from a pension plan reduces the plan's contribution base and shifts the burden of funding plan benefits to remaining employers. The increased costs of maintaining the plan will in turn encourage other employers to withdraw, and the cumulative damage to the contribution base may eventually cause the plan to fail. ''Withdrawal liability responds to these concerns by deterring withdrawals and by shoring up the contribution base of a * * * plan when withdrawals nevertheless occur [and] thus protects the interlocking interests of the PBGC, its premium payers, the non-withdrawn employers'' and workers and retirees with vested benefits. *Peick* v. *PBGC,* 539 F.Supp.1025, 1046–47 (N.D.Ill. 1982), affd. 724 F.2d 1247 (7th Cir. 1983). Indeed, ''it would be analytically unsound to adopt an approach'' that allows a withdrawn employer to escape the costs of reparation to the plan's contribution base. *Calvert & Youngblood Coal Co.* v. *UMWA* 1950 Pension Trust, 6 Employee Benefit Cas. (BNA) 1106, 1112 (N.D. Ala. 1985)(Pointer, C.J.).

Congress nevertheless allowed for the possibility that, in certain industries, the fact that particular employers go out of business (or cease operations in a specific geographic region) might not result in permanent damage to the pension plan's contribution base. In the case of the construction industry, for example, the work must necessarily take place at the construction site; if that work generates contributions to the pension plan, it does not much matter which employer performs the work. Put another way, if a construction employer goes out of business, or stops operations in a geographic area, pension plan contributions will not diminish if a second employer who contributes to the plan fills the void. The plan's contribution base is damaged, therefore, only if the employer stops contributing to the plan but continues to perform construction work in the jurisdiction of the collective bargaining agreement.

This reasoning led Congress to adopt a special definition of the term ''withdrawal'' for construction industry plans. Section 4203(b)(2) of ERISA provides that a complete withdrawal occurs only if an employer ceases to have an obligation to contribute under a plan, but the employer nevertheless performs previously covered work in the jurisdiction of the collective bargaining agreement at any time within five years after the employer ceased its contributions.[1] There is a parallel rule for partial withdrawals from construction plans. Under section 4208(d)(1) of ERISA, ''[a]n employer to whom section 4203(b) (relating to the building and construction industry) applies is liable for a partial withdrawal only if the employer's obligation to contribute under the plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required.''

Section 4203(f) of ERISA provides that PBGC may prescribe regulations under which plans that are not in the construction industry may be amended to use special withdrawal liability rules similar to those that apply to construction plans. Under the statute, the regulations ''shall permit the use of special withdrawal liability rules * * * only in industries' that PBGC determines share the characteristics of the construction industry. In addition, each plan application must demonstrate that the special rule ''will not pose a significant risk to the [PBGC] insurance system.'' Section 4208(e)(3) of ERISA provides for parallel treatment of partial withdrawal liability rules.

The regulation on Extension of Special Withdrawal Liability Rules (29 CFR Part 4203), prescribes the procedures a multiemployer plan must follow to request PBGC approval of a plan amendment that establishes special complete or partial withdrawal liability rules. Under 29 CFR 4203.3(a), a complete withdrawal rule must be similar to the statutory provision that applies to construction industry plans under section 4203(b) of ERISA. Any special rule for partial withdrawals must be consistent with the construction industry partial withdrawal provisions.

Each request for approval of a plan amendment establishing special withdrawal liability rules must provide PBGC with detailed financial and actuarial data about the plan. In addition, the applicant must provide PBGC with information about the effects of withdrawals on the plan's contribution base. As a practical matter, the plan must demonstrate that the characteristics of employment and labor relations in its industry are sufficiently similar to those in the construction industry that use of the construction rule would be appropriate. Relevant factors include the mobility of the employees, the intermittent nature of the employment, the project-by-project nature of the work, extreme fluctuations in the level of an employer's covered work under the plan, the existence of a consistent pattern of entry and withdrawal by employers, and the local nature of the work performed.

PBGC will approve a special withdrawal liability rule only if a review of the record shows that:

(1) The industry has characteristics that would make use of the special construction withdrawal rules appropriate; and

(2) The plan in question would not be aversely affected by the adoption of the special rule. After review of the application and all public comments, PBGC may approve the amendment in the form proposed by the plan, approve the application subject to conditions or revisions; or deny the application.

Request For Comments

On March 28, 2003, the International Longshoremen's and Warehousemen's Union-Pacific Maritime Association Pension Plan (''Plan'') asked PBGC to approve a second modification to a previously approved plan amendment that adopted special withdrawal liability rules.[2] The regulation on Extension of Special Withdrawal Liability Rules provides that any interested party may file comments with PBGC about the request. See 29 CFR 4203.5(b).

The remainder of this Notice contains a synopsis of the application and the various legal arguments and factual representations that were submitted in support of the application.

Applicant

The Plan is a multiemployer plan whose headquarters are in San Francisco, California. The Plan was established in 1951 pursuant to collective bargaining agreements between the International Longshoremen's & Warehousemen's Union (''ILWU'') and the Pacific Maritime Association (''PMA'').

The PMA

The PMA is an employer association whose principal business is to negotiate and administer maritime labor agreements with ILWU. The PMA is composed of American and foreign flag vessel operators, and stevedore and terminal companies that operate in

[1] Section 4203(c)(1) of ERISA applies a similar definition of complete withdrawal to the entertainment industry, except that the pertinent jurisdiction is the jurisdiction of the plan rather than the jurisdiction of the collective bargaining agreement.

[2] PBGC approved to the original plan amendment in 1984, and the agency approved a revised amendment in 1998. See 49 FR 6043 (1984) and 63 FR 27774 (1998).

California, Oregon and Washington ports.

The ILWU

In 1938, the National Labor Relations Board certified the ILWU as the exclusive bargaining representative for a bargaining unit that includes all longshore workers employed by PMA members on the Pacific Coast. See Shipowners' Association of the Pacific Coast, 7 NLRB 1002, 1041 (1938), review dismissed, 103 F.2d 933 (D.C. Cir. 1939), affirmed, 308 U.S. 401 (1940) (certifying the ILWU as the exclusive bargaining representative for ''all workers who do longshore work in the Pacific Coast ports of the United States''). Thus, the PMA–ILWU bargaining agreements cover all workers employed in the loading and unloading of all dry cargo for ocean-going vessels arriving at or departing from ports along the Pacific coast of the United States, including all ports in the states of California, Oregon and Washington.[3]

The Plan

The Plan was established in 1951. Plan benefits are established as part of the collective bargaining process. Plan contributions are determined under a system, established in 1983, that governs all fringe benefit costs under the PMA–ILWU agreement. The system allocates assessments between man-hours and tonnage based on a membership agreement filed with the Federal Maritime Commission. The system works as follows. A man-hour rate is established by dividing a divisor that is established by the agreement into the total annual projected cost for all ILWU–PMA benefits. The result is a man-hour rate that is then multiplied by the total hours expected to be worked during the year to determine the amount of the benefits and costs that will be funded by man-hours. The remaining funds are collected from tonnage. To the extent that man-hours are less than the divisor, assessments are collected on tonnage to fund the benefits in an order of priority established by the agreement. The pension benefits have the highest priority on man-hour contributions. Contributions on tonnage would not be used to fund pensions unless the annual assessments on man-hours were insufficient to meet the annual pension funding obligation required by the Internal Revenue Code.

The total number of contributing employers, based on federal tax identification numbers, has remained stable over several decades. There were 100 contributors in 1972, 107 in 1979, 114 in 1996 and 114 in 2002. The contributors in 1996 that remain contributors in 2002 represent over 99% of the total contributions to the Plan.

Current Financial Status of the Plan

The Plan operates on a July-June fiscal year. The Form 5500 filed for the 2001–02 plan year reports the Plan covered 10,526 active workers, paid benefits to 4547 pensioners and 3759 survivors, and had only 9 inactive participants (or survivors) with vested entitlements. The Plan received $23.9 million in contributions, and paid out $134 million in benefits, as well as $7.8 million in administrative expenses. At year end, plan assets were approximately $1.943 billion.

Under the current version of the special rule, the Plan actuary must provide the PBGC with annual certifications that at least 85% of the Plan's liabilities for vested benefits (determined using specified set actuarial assumptions) are covered by Plan assets. The certification must also show other information about plan contributions and benefit payments. The following table presents this data for the plan years since the PBGC last considered the withdrawal liability exemption.

	Plan year ending June 30, 1997	Plan year ending June 30, 1998	Plan year ending June 30, 1999	Plan year ending June 30, 2000	Plan year ending June 30, 2001	Plan year ending June 30, 2002
Assets	$1.63 billion	$1.91 billion	$2.16 billion	$2.40 billion	$2.22 billion	$1.93 billion
Vested Benefits	$1.69 billion	$1.66 billion	$1.63 billion	$1.83 billion	$1.99 billion	$1.84 billion
Active Participants	8,315	8,859	9,572	9,395	10,070	10,113
Contributions	$104 million	$35.0 million	$28.8 million	$32.5 million	$26.9 million	$23.5 million
Benefit Payments	$101.5 million	$108.0 million	$110.6 million	$126.4 million	$132.9 million	$154 million
Plan Assets As Multiple of Benefits.	16.1	17.7	19.6	19.0	16.6	12.5

Future Industry Prospects

The application lays great emphasis upon the fact that PMA members handled ''virtually all of the over 263 million revenue tons of dry cargo that went through West Coast ports in 2002. It is estimated that this cargo had a value of $320 billion and generated ocean shipping revenues of approximately $14.7 billion.'' The application asserts that the financial health of the Plan ''is not tied to the fortunes of any one member. Rather, Plan contributions are dependent only on the amount of cargo shipped through West Coast ports. The Plan is thus not at risk even if some of its largest employers both cease operations and are not replaced by another contributing employer (which * * * is highly unlikely in any event).

The application reported that ''the West Coast shipping industry has grown steadily over the past five decades. Total dry cargo at all covered ports amounted to 29 million revenue tons in 1960, 114 million revenue tons in 1980, 182 million revenue tons in 1990 and 263 million revenue tons in 2002. This change is reflected in the number of covered hours by ILWU-represented employees. Such hours increased from 15.6 million in 1992 to more than 24 million in 2002.'' Thus, the application contends that the PMA–ILWU ''lock'' on all shipping imports resembles the geographic coverage that is said to typify the construction industry.

The application asserts that ''the mobility of longshore workers is quite similar to that of many construction industry workers. Many West Coast longshore workers do not typically work for the same employer on a regular basis.'' The application uses the payroll system to illustrate the extent of employment mobility. ''[W]ithin a single week,'' the application states, ''a longshore worker often has more than one employer.'' For this reason, ''PMA acts as the payroll agent for all of its members. The employers remit cash wages and collectively bargained-for employee benefit contributions to PMA, which in turn issues weekly payroll checks to ILWU members and transmits contributions to various benefit funds. Because of this system, a worker tends

[3] Vessel operators who are not PMA members must contract with a stevedoring company or terminal operator that belongs to PMA in order to unload cargo.

to regard PMA as his or her employer, and may have little awareness of who is his or her actual employer.''

Special Withdrawal Liability Rules

When approving the amended special withdrawal liability rule, PBGC gave the following synopsis of the original special rule.

Under the special rules, a complete withdrawal occurs if an employer who makes contributions to the Plan for longshore work permanently ceases to have an obligation to make contributions to the Plan, and: (1) Continues to perform work of the type for which contributions to the Plan are currently or were previously required at any Pacific Coast port in the United States, (2) resumes such work at any time during the Plan Year in which the contribution obligation ceased through the end of the fifth succeeding Plan Year without renewing the contribution obligation, (3) sells or otherwise transfers a substantial portion of its business or assets to another person that performs longshore work without having an obligation to make contributions to the Plan under the collective bargaining agreements under which the Plan is maintained, or (4) ceases to have an obligation to contribute in connection with the withdrawal of every employer from the Plan or substantially all of the employers within the meaning of section 4219(c)(1)(D) of ERISA. A partial withdrawal occurs if an employer incurs a partial withdrawal within the meaning of section 4205 of ERISA and, in addition, at any time from the date of the partial withdrawal through the succeeding five Plan Years: (1) Performs work of the type for which contributions to the Plan are currently or were previously required at any Pacific Coast port in the United States without having an obligation to contribute to the Plan for such work, or (2) sells or otherwise transfers a substantial portion of its business or assets to another person that performs longshore work without having an obligation to make contributions to the Plan under the collective bargaining agreements under which the Plan is maintained.

The special withdrawal liability rules were subject to the Plan's satisfying certain funding requirements. In 1998, PBGC approved the Plan's request to modify the funding requirements in connection with an amendment adopted by the PMA and the ILWU. The funding requirement, as amended in 1998, is as follows:

PBGC hereby grants the Plan's request for approval of a plan amendment modifying special withdrawal liability rules, as set forth herein. PBGC grants approval under the condition that such approval will expire, and the Plan's special withdrawal liability rules will be void as of the first day of the Plan Year following a Plan Year for which the Plan is not at least eighty-five percent (85%) funded, and during said following Plan Year the Contributions are less than the least of (a) total administrative cost and benefits for said following Plan Year or (b) the amount required to increase the Funding Percentage to eighty-five percent (85%) for said following Plan Year or (c) the maximum tax-deductible contribution to the Plan. The Plan has agreed to certify to these conditions annually. Should the Plan wish to again amend these rules at any time, PBGC approval of the amendment will be required.

The 2002 Collective Bargaining Agreement

After protracted disagreements and work stoppages, the PMA and ILWU solicited and obtained the assistance of the Chairman of the Federal Mediation and Conciliation Service in an effort to reach a new labor agreement. With his assistance, the parties reached a six-year labor contract that allows for cost savings due to improvements in technology. The new labor contract provided for a gradual increase in Plan benefits from $95 per month per year of service (for a maximum of 35 years of service) to $150 per month per year of service. The entire labor contract (and not just the increase in pension benefits) is contingent on PBGC approval of the pending request. The application represents that the labor agreement must be renegotiated from scratch in the event PBGC denies the request.

The Proposed Amendment

The Plan has requested approval of several amendments to the existing rule. In particular, the Plan seeks to:

(1) Revise certain actuarial assumptions (relating to mortality, disability, marital status, and expected retirement dates) in order to reflect emerging actuarial experience. The Plan does not propose to change other assumptions used for the annual actuarial certification to PBGC.

(2) modify, on a temporary basis, the 85% funding requirement instituted in 1998. The Plan requests that this requirement be lowered to 65% through the end of the plan year ending June 30, 2008. The percentage would then increase by 3% per plan year until it again reaches 85%.

(3) modify, on a temporary basis, the Plan's 80% funding requirement instituted in 1984. That requirement provides for additional contributions as of plan valuation date if the Plan's funded status is projected to fall below 80% in the 5th year following the valuation date. The Plan requests that this requirement be lowered to 65% through the end of the plan year ending June 30, 2008. The percentage funded status requirement would then increase by 3% per plan year until it again reaches 80%.

The Plan acknowledges that the benefit increases promised under the 2002 collective bargaining agreement, combined with ''the disappointing stock market performance in the past few years'' will be likely to cause the Plan to fall below the 85% funding requirement set in the 1998 agreement with the PBGC. This would evidently require substantial contribution increases over the next several years, and these costs would reduce investment needed, among other things, to reduce shipping costs and thereby improve the long-term funding base of the Plan. The PMA and the ILWU jointly posit that this ''temporary reduction'' in the 85% funding requirement ''will help the West Coast ports to obtain long-term benefits that will long outlast the six-year term of the collective bargaining agreement''.

The Plan also maintains that experience from 1984 through the present confirms the accuracy of the PBGC determination that the West Coast shipping industry shares the salient characteristics of a construction plan. In the words of the application:

So long as the work of ILWU members is necessary for the movement of all types of cargo, the contribution base of the Plan rests upon the amount of cargo shipped. The amount of cargo shipped through West Coast ports is independent of the existence of any particular longshore employer.

In addition, like the construction industry, the work is local, performed at the port of embarkation or debarkation. An employer cannot withdraw from the Plan while continuing to perform longshore work at West Coast ports, because longshore work along the entire West Coast for all ocean-going dry cargo work is covered under collective bargaining agreements that require contributions to the Plan. Given that the entire West Coast is one bargaining unit, it is not possible for cargo to be loaded or unloaded at any point on the coast without contributions being paid to the Plan. Thus, as a practical matter, it is not realistic to expect noncontributory, covered work. Nonetheless, if a former contributing employer were to compete against the Plan's other employers in this way, thereby diminishing the Plan's

contribution base, withdrawal liability would be imposed pursuant to the special liability rules previously approved by the PBGC. Because of the local nature of the work and the requirement that contributions be made to the Plan for all longshore work done on the West Coast, the comings and goings of employers do not have an adverse effect on the Plan's contribution base, which is dependent upon the vitality of the West Coast shipping industry as a whole. Thus, the covered industry evidences characteristics that indicate that cessations by employers do not have a weakening effect on the Plan's contribution base.

The Plan further contends that past experience and reasonable future projections show that the relaxation of the current rule will not pose an unacceptable risk of loss to PBGC or participants.

The Plan's funded status has improved dramatically since 1984, underscoring the ability of the industry to fund the Plan * * *. And, even though the Plan's funded status will decline for a time once the amendment fully takes effect, the Plan and the covered industry have unique characteristics that suggest that the Plan's contribution base is likely to remain stable * * * [Actuarial projections show that] the Plan's funding policy will return the Plan to 85% funding in a little over ten (10) years * * *. The Plan's continuation is dependent only on the continued activity in the West Coast shipping industry as a whole. Consequently, the Plan's contribution base is secure and the departure of one employer from the Plan is highly unlikely to have an adverse effect on the contribution base so long as the level of shipping does not decline.

Comments

All interested persons are invited to submit written comments concerning the pending request to PBGC at the above address, on or before July 28, 2003. All comments will be made a part of the record. The PBGC will make the comments received available on its Web site, *http://www.pbgc.gov.* Copies of the comments and the pending request may be obtained by writing the PBGC's Communications and Public Affairs Department (CPAD) at Suite 240 at the above address or by visiting or calling CPAD during normal business hours (202–325–4040).

Issued in Washington, DC, on this 10th day of June 2003.

Steven A. Kandarian,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 03–14969 Filed 6–12–03; 8:45 am]

BILLING CODE 7708–01–P

PENSION BENEFIT GUARANTY CORPORATION

Required Interest Rate Assumption for Determining Variable-Rate Premium; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or can be derived from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's Web site (*http://www.pbgc.gov*).

DATES: The required interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in June 2003. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in July 2003.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate (the ''required interest rate'') in determining a single-employer plan's variable-rate premium. The required interest rate is the ''applicable percentage'' (currently 100 percent) of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid (the ''premium payment year''). (Although the Treasury Department has ceased issuing 30-year securities, the Internal Revenue Service announces a surrogate yield figure each month—based on the 30-year Treasury bond maturing in February 2031—which the PBGC uses to determine the required interest rate.)

The required interest rate to be used in determining variable-rate premiums for premium payment years beginning in June 2003 is 4.53 percent.

The following table lists the required interest rates to be used in determining variable-rate premiums for premium payment years beginning between July 2002 and June 2003.

For premium payment years beginning in—	The required interest rate is—
July 2002	5.52
August 2002	5.39
September 2002	5.08
October 2002	4.76
November 2002	4.93
December 2002	4.96
January 2003	4.92
February 2003	4.94
March 2003	4.81
April 2003	4.80
May 2003	4.90
June 2003	4.53

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in July 2003 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 9th day of June, 2003.

Joseph H. Grant,

Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation.

[FR Doc. 03–14953 Filed 6–12–03; 8:45 am]

BILLING CODE 7708–01–P

POSTAL SERVICE

Request for Comments on Revising and Updating the 2004–2008 Five-Year Strategic Plan, Pursuant to the Government Performance and Results Act of 1993

AGENCY: Postal Service.

ACTION: Request for comments.

SUMMARY: The Government Performance and Results Act of 1993 (GPRA) mandated, in 1997, that the Postal Service™ publish a 5-year plan outlining its goals, targets, and strategies, and that the Postal Service update and revise its 5-year plan at intervals of no less than 3 years. In so doing, GPRA states that the Postal Service must, as an aspect of its strategic planning process, solicit and consider the ideas, knowledge, and opinions of those potentially affected by or interested in its 2004–2008 Five-Year Strategic Plan. This notice, therefore, asks for public comment concerning the development and drafting of the Postal Service's 2004–2008 Five-Year Strategic Plan.

DATES: Comments must be received by July 18, 2003.

ADDRESSES: Written comments should be directed to Julie S. Moore, Acting Vice President, Strategic Planning, United States Postal Service, 475 L'Enfant Plaza, SW., Room 5016, Washington, DC 20260–5142. Comments may also be sent to *5YearStrategicPlan@usps.gov.*

FOR FURTHER INFORMATION CONTACT: Paul Van Coverden, (202) 268–8130.

SUPPLEMENTARY INFORMATION:

Statutory Background

The Government Performance and Results Act of 1993 (GPRA), Public Law 103–62 was enacted to make Federal programs more effective and publicly accountable by requiring agencies to institute results-driven improvement efforts, service-quality metrics, and customer satisfaction programs. Other statutory goals were to improve Congressional decisionmaking and the internal management of the United States government, as cited in Public Law 103–62, section 2(b), 107 Stat 285. Because of the Postal Service's role as an independent establishment of the Executive Branch of the government of the United States, section 7 of the law establishes separate provisions that apply to the Postal Service. (*See* 39 U.S.C. 2801–2805.)

Section 2802 of title 39, United States Code, required that the Postal Service submit to the President and Congress a strategic plan for its program activities no later than September 30, 1997. Additionally, section 2802 requires the Postal Service to update and revise its strategic plan at least every 3 years. This plan is to contain the following:

(1) A comprehensive mission statement covering the major functions and operations of the Postal Service.

(2) General goals and objectives, including outcome-related goals and objectives, for the major functions and operations of the Postal Service.

(3) Descriptions of how these goals and objectives are to be achieved and of the operational processes; skills and technology; and the human, capital, information, and other resources required to meet the goals and objectives.

(4) A description of how the performance goals included in the annual performance plan required under section 2803 will be related to the general goals and objectives in the strategic plan.

(5) An identification of the key factors external to the Postal Service and beyond its control that could significantly affect the achievement of its general goals and objectives.

(6) A description of the program evaluations used in establishing or revising general goals and objectives, with a schedule for future program evaluations. (*See* 39 U.S.C. 2802(a).)

GPRA also requires the preparation of annual performance plans covering each program activity set forth in the Postal Service budget. (*See* 39 U.S.C. 2803.) These plans link the organizational goals in the Strategic Plan with ongoing operations. Finally, the law requires the preparation of annual performance reports, which review and compare actual performance with the performance targets stated in the annual plans. (*See* 39 U.S.C. 2804.)

In order to continue to involve the public in this planning process, GPRA also requires the Postal Service, as it develops each new iteration of the Strategic Plan, to ''solicit and consider the views and suggestions of those entities potentially affected by or interested in such a plan, and shall advise the Congress of the contents of the plan.'' (*See* 39 U.S.C. 2802(d).)

Discussion of the Postal Service Mission, Vision, and Objectives

In 1970, Congress enacted the Postal Reorganization Act, transforming the former Post Office Department into the United States Postal Service. Its intent was to ensure that the former department became a self-sustaining Federal entity, which operates more like a business. While fulfilling its basic mission of providing affordable and universal service, the Postal Service, as a unique Government enterprise, would also focus more clearly on all its customers' needs than had its predecessor Executive Branch department.

The Postal Reorganization Act states that the Postal Service will have the ''basic and fundamental'' responsibility to provide postal services to bind the nation together through the personal, educational, literary, and business correspondence of the people. Prompt, reliable, and efficient postal services, the legislation mandates, will be extended to patrons in all areas and to all communities.

In recent years, the historic mission of the Postal Service, as described in 39 U.S.C. 101, has been amplified by additional organizational statements of purpose published most recently in the April 2002 *Transformation Plan.* In the Plan's opening message the then-Chairman of the Board Robert F. Rider and the current Postmaster General and CEO John E. Potter note that the Postal Service must transform ''to successfully carry out its long-standing mission of providing universal service.'' They state that transformation ''is about maintaining a fundamental principle and vision that delivery of mail is an important government service, regardless of where one lives or what one's station in life might be. Equal access and opportunity to communicate through the mail to meet personal and commercial needs support a basic American value of equality.'' In the introduction to the Plan, the Postal Service explains that ''At stake is the future of what has been, since this nation's founding, the right of every American to send and receive mail. The Postal Service exists as a governmental entity whose mission is universal service to all. That mission is a direct reflection of the values on which this country was founded, and it is those values of equality of opportunity that drive Postal Service management today just as they drove the managers of the Post Office Department.''

The authors of the Transformation Plan further say that ''In developing this report, we gratefully acknowledge the assistance of the full range of stakeholders in the postal industry. At the outset, therefore, we would like to articulate a firm commitment to all of these stakeholders, and especially to our customers. During this crucial transformation period, in order to maintain our financial viability and fulfill our universal service mission, we commit that we will:

• Foster growth by increasing the value of postal products and services to our customers;
• Improve operational efficiency; and
• Enhance the performance-based culture.''

In their opening message Mr. Rider and Mr. Potter recognize their responsibility ''to take definitive action to offer the citizens of America a clear and compelling view of current and planned actions and our vision of where we are headed. At the same time we want to encourage all our stakeholders to remain actively engaged in discussions about postal issues and the Postal Service's future.''

It is in this spirit, as the Postal Service develops the 2004–2008 Five-Year Strategic Plan, that we ask stakeholders to once again share their views on its future.

Solicitation of Comments

The United States Postal Service solicits identification of and comment on the key factors external to the Postal Service and beyond its control which could significantly affect the achievement of its mission, vision, and goals. During development of the Transformation Plan and during subsequent Postal Service testimony before the President's Commission on the Postal Service the following fundamental changes were identified as those reshaping the delivery services marketplace:

• *Changing customer needs.* With access to more information and options than ever before, customers have a broad range of choices for delivery of messages, money, and merchandise—our three businesses. Customer requirements for postal services and entrenched network structures and service patterns may be changing.

• *Eroding mail volumes.* Electronic alternatives, particularly bill presentment and payment, pose a definite and substantial risk to First-Class Mail® volume and revenue within the next 5–10 years. This could, in turn, have a negative impact on First-Class Mail rates.

• *Rising costs.* Despite major gains in efficiency and productivity through letter mail automation, the costs of maintaining an ever-expanding postal network are rising faster than revenue, especially costs outside the direct control of the Postal Service, such as retirement and health benefit liabilities.

• *Fixed costs.* Universal service requires a significant infrastructure to deliver postal services. Almost half of current Postal Service costs are spent on these resources, and that level does not change when volume or productivity increases or decreases. This makes cost containment challenging.

• *Merging of public and private operators into global networks.* Former national foreign postal services, some privatized, have entered the U.S. domestic market; giant private firms that dominate global parcel and express markets are entering an increasing portion of the postal value chain.

• *Increasing security concerns.* Rising security concerns will require expensive and sophisticated countermeasures.

Are these factors still relevant? Which ones are relevant and which are not? Are some more important than others? Is the rate of change for each factor increasing or decreasing? Are there other factors that warrant consideration? What are they? In developing the 2004–2008 Five-Year Strategic Plan, the Postal Service would like to receive stakeholders' views and comments on these and other long-term external changes, issues, and trends.

Finally, stakeholders should include their comments that were made to the President's Commission on the Postal Service regarding the United States Postal Service if reviewing such comments would help the Postal Service in developing its 2004–2008 Five-Year Strategic Plan.

The Postal Service also invites comment on its long-range organizational goals, or objectives, published most recently in the Preliminary Annual Performance Plan for 2004 as part of the FY 2002 Comprehensive Statement on Postal Operations. The Postal Service has employed long-range goals, or objectives, as part of a strategic planning process for over two decades, along with systematic performance assessments. The Postal Service has developed a disciplined process to establish the goals, objectives, indicators, and targets; assign resources to programs that support achievement of the targets; implement the programs; and review performance. Stakeholder input will support and enhance both the performance process and the new 2004–2008 Five-Year Strategic Plan.

Specifically, the Postal Service solicits stakeholder comment on the following long-range organizational goals and objectives:

Goal	FY 2004 preliminary performance objective (subgoals)
Growth	• Timeliness and consistency. • Priority Mail® (Air) On Time. • Priority Mail (Surface) On Time. • Express Mail® On Time. • Overnight First-Class Mail On Time. • Two-Day First-Class Mail On Time. • Three-Day First-Class Mail On Time.
Motivated, productive and inclusive workforce.	• Minimize impacts from accidents and absences. • Employees committed to Postal Service success.
Affordability	• Improve productivity to control costs, improve contribution levels, and grow the business.

Any comments pertaining to the means by which the Postal Service can best achieve these goals are welcome. Comments on other aspects of strategic planning, goal-definition, and performance measurement are also welcome.

This request for comments initiates a formal process for the development of the 2004–2008 Five-Year Strategic Plan, and offers an opportunity for stakeholder comments to be given careful consideration in the development of the plan's goals, targets, and strategies. While its July 18 deadline corresponds with a need and requirement for formality in the development of this plan, the strategic planning process itself is continuous and welcomes ongoing input from all stakeholders in the development of annual business environmental assessments, and annual performance plans and reports.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 03–15066 Filed 6–12–03; 8:45 am]

BILLING CODE 7710–12–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, 450 Fifth Street, NW., Washington, DC 20549.

Extension:

Rule 489 and Form F–N; SEC File No. 270–361; OMB Control No. 3235–0411.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995

(''Act'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Rule 489 under the Securities Act of 1933, Filing of Form by Foreign Banks and Certain of their Holding Companies and Finance Subsidiaries; and Form F–N, Appointment of Agent for Service of Process by Foreign Banks and Foreign Insurance Companies and Certain of Their Holding Companies and Finance Subsidiaries Making Public Offerings of Securities in the United States.

Rule 489 under the Securities Act of 1933 requires foreign banks and foreign insurance companies and holding companies and finance subsidiaries of foreign banks and foreign insurance companies that are excepted from the definition of ''investment company'' by virtue of rules 3a–1, 3a–5, and 3a–6 under the Investment Company Act of 1940 to file Form F–N to appoint an agent for service of process United States when making a public offering of securities. Approximately four entities are required by rule 489 to file Form F–N, which is estimated to require an average of one hour to complete. The estimated annual burden of complying with the rule's filing requirement is approximately five hours, as one of the entities has submitted multiple filings.

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 control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 9, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–14966 Filed 6–12–03; 8:45 am]

BILLING CODE 8010–01–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 17a–6, SEC File No. 270–433, OMB Control No. 3235–0489.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget request for extension of the previously approved collection of information discussed below.

Rule 17a–6 (17 CFR 240.17a–6) permits national securities exchanges, national securities associations, registered clearing agencies, and the Municipal Securities Rulemaking Board (collectively, ''SROs'') to destroy or convert to microfilm or other recording media records maintained under Rule 17a–1, if they have filed a record destruction plan with the Commission and the Commission has declared such plan effective.

There are 26 SROs: 9 national securities exchanges, 1 national securities association, 15 registered clearing agencies, and the Municipal Securities Rulemaking Board. These respondents file no more than one record destruction plan per year, which requires approximately 160 hours for each plan. However, we are discounting that figure by a factor of 20 given our experience to date with the number of plans that have been filed. Thus, the total annual compliance burden is estimated to be 8 hours. The approximate cost per hour is $200, resulting in a total cost of compliance for these respondents of $1,600 per year (8 hours @ $200 per hour).

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.

General comments regarding the estimated burden hours should be directed to the Desk Officer for the Securities and Exchange Commission at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 and Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 5, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–14967 Filed 6–12–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48000; File No. SR–Amex–2003–55]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to Auxiliary Opening Procedures for Nasdaq National Market Securities

June 6, 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, 2003, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Amex.[3] Amex filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act[4] and Rule 19b–4(f)(6) thereunder,[5] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Commission staff made non-substance typographical changes to the text of the proposed rule change with the permission of Amex. Telephone conversation between Michael Cavalier, Associate General Counsel, Amex, and Andrew Shipe, Special Counsel, Division of Market Regulation, Commission, June 6, 2003.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

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 Amex proposes to adopt Rule 118(k) relating to implementation of auxiliary opening procedures on expiration days in Nasdaq National Market securities traded pursuant to unlisted trading privileges (''UTP''). Below is the text of the proposed rule change. New text is in *italics.*

* * * * *

Trading in Nasdaq National Market Securities

Rule 118.

(a) through (j) No change.

(k) Expiration Day Auxiliary Procedures for the Opening

The Exchange has adopted auxiliary procedures for expiration days in order to integrate stock orders in Nasdaq securities relating to expiring index contracts into the Amex's opening procedures in a manner that will assure an efficient market opening in each stock as close to 9:30 a.m. as possible. An expiration day is a trading day prior to the expiration of index-related derivative products (futures, options or options on futures), whose settlement pricing is based upon opening or closing prices in the underlying security, as identified by a qualified clearing corporation e.g., the Options Clearing Corporation) and the four end-of-calendar-quarter trading days when index options expire. The twelve expiration Fridays are ''Expiration Fridays'' which fall on the third Friday in every month. If that Friday is an Exchange holiday, there will be an expiration Thursday in such a month. Orders relating to index contracts whose settlement pricing is based upon the ''Expiration Friday's'' or the end-of-calendar-quarter trading day's opening prices must be received by the Amex Order File (''AOF'') or by the specialist by 9 a.m. These orders may be cancelled or reduced in size. Firms canceling these orders or reducing them in size shall prepare contemporaneously a written record describing the rationale for the change and shall preserve it as Rule 153 provides. Stock orders relating to index contracts whose settlement pricing is not based upon the ''Expiration Friday's'' or the end-of-calendar-quarter trading day's opening prices may be entered before or after 9 a.m. To facilitate early order entry, AOF (a) will begin accepting orders at 7:30 a.m. and (b) will accept orders of 99,900 shares or less.

''Limit at the opening'' (''limit OPG'') orders are permitted, including delivery through Exchange systems. Ordinary limit orders may also be entered.

Order Identification

Stock orders relating to opening-price settling contracts must be identified ''OPG''. Firms entering these orders through AOF, but unable to identify orders as ''OPG,'' may use a unique branch code or firm identifier (mnemonic) to identify these orders. Firms unable to identify these orders in either way, and firms not using AOF, must submit a list of all these orders and related details to the Amex Market Surveillance Department.

Dissemination of Order Imbalances

On expiration days, for any stocks having a market order imbalance of 25,000 shares or more at 9 a.m., the Exchange will disseminate the size of the order imbalance via a structured communication process established with major news vendors as promptly as practicable after 9 a.m. Imbalances of less than 25,000 shares may be disseminated at that time with Floor Official approval. A ''no imbalance'' status will not be published for any stock.

Except for the auxiliary procedures described above, all stocks are subject to the regular Amex opening procedures, including price indications where a substantial price change is anticipated. Ten minutes must elapse between a first indication and a stock's opening. However, when more than one indication is necessary, a stock may open five minutes after the last indication provided that ten minutes must have elapsed from the dissemination of the first indication.

Indications

Indications before the opening should be disseminated at 9:15 a.m., if possible, but any indications disseminated prior to 9:30 a.m. require the approval of a Floor Governor or Exchange Official, or the approval of a Floor Official if it relates to a spin-off or if trading had been halted and not resumed the prior day. Indications will be disseminated via a structured communication process established with major news vendors.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to provide procedures to accommodate handling opening-price orders on expiration days in Nasdaq National Market securities. The Exchange believes that this will enhance the Exchange's Nasdaq UTP program by facilitating the handling of orders routed to the Exchange before the Exchange opening in Nasdaq stocks on expiration days. Expiration days include Expiration Fridays (when some stock index options, index futures and options on index futures expire or settle concurrently), and the four end-of-calendar-quarter trading days when index options expire.

Nasdaq stocks are not currently subject to auxiliary opening procedures in any market trading Nasdaq securities. According to the Exchange, the New York Stock Exchange (''NYSE'') has long implemented such procedures for NYSE-listed issues with the expressed aims of minimizing excess volatility associated with expiration days and allowing market participants the opportunity to react to the additional market information provided under NYSE's auxiliary opening procedures as set forth in NYSE Rule 123C.[6] The Exchange believes similar procedures applicable to Nasdaq securities will provide market participants, including off-Floor participants, with useful information relating to the potential impact of index-related orders on opening prices of securities on expiration days.[7] The Exchange believes that this will provide a model that will increase transparency, reduce volatility and facilitate a fair and orderly opening

[6] *See e.g.* Securities Exchange Act Release No. 31733 (January 14, 1993), 58 FR 6034 (January 25, 1993).

[7] The Exchange also has filed with the Commission another proposed rule change relating to auxiliary opening procedures (SR–Amex–2003–21). Those procedures will apply to Amex-listed securities and the Exchange intends to clarify in an amendment to SR–Amex–2003–21 that auxiliary opening procedures for Nasdaq securities would be governed by Amex Rule 118(k).

process in Nasdaq securities on expiration days.

Under current Amex procedures applicable to all securities traded on the Amex, including Nasdaq securities, an order imbalance before the opening may result in a delayed opening, with price indications disseminated where a substantial price change is anticipated. The Exchange believes that providing auxiliary opening procedures for Nasdaq securities traded on the Exchange will provide a valuable additional service for market participants engaging in index-related trading on expiration days, by allowing them to better gauge trading interest in Nasdaq stocks traded on the Exchange on days when there is the potential for additional market pressure resulting from index trading. The Nasdaq National Market stocks traded on the Amex are among the largest Nasdaq stocks and the ones most likely to be the subject of index-related trading on expiration days.

Proposed Amex Rule 118(k) will provide for acceptance on expiration days of opening price orders of 99,900 shares or less in Nasdaq stocks through the Amex Order File (''AOF'') beginning at 7:30 a.m. (Eastern Time). Orders relating to index contracts whose settlement pricing is based upon the ''Expiration Friday's'' or the end-of-calendar-quarter trading day's opening prices would be required to be received by the AOF or by the specialist by 9 a.m. These orders could be cancelled or reduced in size. Firms canceling these orders or reducing them in size would be required to prepare contemporaneously a written record describing the rationale for the change and to preserve it as Amex Rule 153 provides.

On expiration days, for Nasdaq stocks having a market order imbalance on the Amex of 25,000 shares or more, the Exchange will disseminate the size of the order imbalance as promptly as practicable after 9 a.m. Stock orders on expiration days relating to opening-price settling contracts would have to be identified ''OPG.'' Firms entering these orders through AOF, but unable to identify orders as ''OPG,'' may use a unique branch code or firm identifier (mnemonic) to identify these orders. Firms unable to identify these orders in either way, and firms not using AOF, must submit a list of all these orders and related details to the Amex Market Surveillance Department. Imbalance information would be disseminated by means of a structured communication process established with major news vendors (*e.g.,* Bloomberg, Dow Jones) utilizing, among other things, File Transfer Protocol to permit public dissemination of order imbalance information at 9 a.m. or as soon thereafter as practicable. With Floor Official approval, imbalances of less than 25,000 shares may be disseminated as soon as practicable after 9 a.m.

With the exception of these auxiliary procedures for expiration days, regular Amex opening procedures for all trading days (not only expiration days) would apply, including price indications where a substantial price change is anticipated. Indications, as well as messages for ''opening delay'' and ''trading resumed,'' will also be communicated by means of the structured communication process referenced above. Ten minutes would be required to elapse between a first indication and the stock's opening. When more than one indication is necessary, a stock may open five minutes after the last indication provided that ten minutes must have elapsed from the dissemination of the first indication. Indications before the opening would have to be disseminated at 9:15 a.m., if possible. An indication disseminated before 9:30 a.m. would require Floor Governor or Exchange Official approval, or Floor Official approval if it relates to a spin-off or if trading had been halted and not resumed the prior day.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[8] in general, and furthers the objectives of section 6(b)(5) of the Act,[9] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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

No written comments were solicited or received in response to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Amex has stated that because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after filing (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest), and because Amex provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

Amex–2003–55 and should be submitted by July 7, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–14968 Filed 6–12–03; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular—Reusable Software Components

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability and request for public comment.

SUMMARY: This notice announces the availability of, and requests comments on, a proposed Advisor Circular that guides Reusable Software Component (RSC) developers, integrators, and applicants to gain Federal Aviation Administration (FAA) acceptance of software components that may makeup a part of the system's software application. This proposed AC also provides a means of FAA acceptance for obtaining credit to use previously approved RSC in follow-on projects.

DATES: Submit comments on or before July 15, 2003.

ADDRESSES: Send all comments on the proposed Advisory Circular to: Federal Aviation Administration, Aircraft Certification Service, AIR–120, Room 835, 800 Independence Avenue, SW., Washington, DC 20591. You may deliver comments to: Federal Aviation Administration (FAA), 800 Independence Avenue, SW., Room 835, Washington, DC 20591. Your comments must identify the Advisory Circular file number.

FOR FURTHER INFORMATION CONTACT: Mr. John Lewis, Federal Aviation Administration, Aircraft Certification Service, AIR–120, Federal Aviation Administration, Room 835, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 493–4841, FAX: (202) 267–5340; E-mail address: *John.Lewis@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

You are invited to comment on the proposed Advisory Circular by submitting written data, views, or arguments to the address listed above. You can examine comments received on the proposed Advisory Circular before and after the comment closing date at the FAA's Headquarters Building, Room 835, 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. The Director of the Aircraft Certification Service will consider all communications received on or before the closing date before issuing the final Advisory Circular.

Background

Currently, there are no procedures for Reusable Software Components (RSC) developers to directly transfer their accepted data from one project to the next and across company boundaries. Traditionally, RSC developers provided substantiation in one of two ways. First, by resubmitting the data package and repeating the work for each system's application. Secondly, by providing traceability through the TC, ATC, STC, ASTC, or TSO approval back to the desired data and defending the validity of the original approval basis for each application. This AC builds upon that reuse concept by considering components that are reused company boundaries.

Economic incentives and technical advances in software development have made it desirable to the integrator or applicant to develop a RSC that can be integrated into a number of target computers, environments, or both. In these cases, the RSC developer may partially meet the applicable RTCA/DO–178B objectives, while the integrator, applicant (or both) is responsible for completing the software and certification compliance activities. Examples of potential RSCs include software libraries, input and output data files, operating systems, and communication protocols.

How To Obtain Copies

You may get a copy of the proposed AC from the FAA Web site at: *http://www.airweb.faa.gov/rgl.* You may also request a copy from Mr. John Lewis, see section entitled **FOR FURTHER INFORMATION CONTACT** for the complete address. You may inspect the RTCA document at the FAA office location listed under **ADDRESSES.** However, RTCA documents are copyrighted and may not be reproduced without the written consent of RTCA, Inc. You may purchase copies of Document No. RTCA/DO–178B from: RTCA Inc., 1828 L Street, NW., Suite 807, Washington, DC 20036 (Web site: *http://www.rtca.org).*

Issued in Washington, DC, on June 5, 2003.

Nancy C. Lane,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 03–15001 Filed 6–12–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Program Management Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Program Management Committee meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the RTCA Program Management Committee.

DATES: The meeting will be held June 25, 2003 starting at 9 a.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street NW., Suite 850, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Program Management Committee meeting. The agenda will include:

- June 25
- Opening Session (Welcome and Introductory Remarks, Review/Approve Summary of Previous Meeting).
- Publication Consideration/Approval:
  - Final Draft, Plans and Principles for the Implementation of Aeronautical Data Link System (ADLS) Edition 1. Aeronautical Telecommunications Network (ATN) Baseline 1, RTCA Paper No. 083–03/PMC–277, prepared by SC–194.
  - Final Draft, NEXCOM Plan, U.S. National Airspace System (NAS) Plan for Transition to Air/Ground ICAO VDL Mode 3 Based Integrated Voice and Data Communications, RTCA Paper No. 067–03/PMC–274, prepared by SC–198.
  - Final Draft, Change 1 to DO–284, Next Generation Air/Ground Communications System (NEXCOM) Safety and Performance Requirements (SPR), RTCA Paper No. 097–03/PMC–278, prepared by SC–198.
- Discussion:

[12] 17 CFR 200.30–3(a)(12).

- Special Committee 202, Portable Electronic Devices.
- Update Terms of Reference.
- Special Committee Chairman's Reports.

- Action Item Review:
  - Review/Status—All open action items.
- Closing Session (Other Business, Document Production, Date and Place of Next Meeting, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 3, 2003.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 03–15003 Filed 6–12–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 201: Aeronautical Operation Control (AOC) Message Hazard Mitigation (AMHM)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 201 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 201: Aeronautical Operational Control (AOC) Message Hazard Mitigation (AMHM).

DATES: The meeting will be held on July 8–10, 2003, beginning at 10 a.m.

ADDRESSES: The meeting will be held at RTCA, 1828 L Street NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036–5133; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. Appendix 2), notice is hereby given for a Special Committee 201 meeting. The agenda will include:

- July 8–10:
- Opening Session (Welcome, Introductory and Administrative Remarks, Review Agenda, Background).
- Review comments to Draft Document Version D2.
- Drafting group work on other sections of the document.
- Subgroup A Section 2, Airline Operational Control (AOC), Data Link Services.
- Subgroup B Section 3, Guidelines for Application of AOC Data Link Services.
- Subgroup C Section 4, Affected AOC Data Link Services.
- Closing Session (Other Business, Date and Place of Next Meeting, Closing Remarks, Adjourn).

Note: This agenda will be followed as appropriate over the course of 3 days.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 4, 2003.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 03–15002 Filed 6–12–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Final Policy Statement, Diesel Engine Installation, PS–ACE100–2002–004

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of issuance of policy.

SUMMARY: This notice announces the issuance of policy PS–ACE100–2002–004, Final Policy Statement, Diesel Engine Installation. The purpose of this policy statement is to identify appropriate certification requirements for installation of a diesel engine into a small airplane. It also includes guidance related to methods of compliance as well as items that may require equivalent level of safety findings (ELOS) or special conditions.

DATES: PS–ACE100–2002–004 was issued by the Acting Manager of the Small Airplane Directorate on May 15, 2003.

How To Obtain Copies: A paper copy of the policy PS–ACE100–2002–004 may be obtained by contacting Mr. Pete Rouse, (816) 329–4135, Small Airplane Directorate, Standards Office (ACE–110), Aircraft Certification Office, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, MO 64106, or by faxing your request to (816) 329–4090. The policy will also be available on the Internet at *http://www.airweb.faa.gov/policy.*

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

Michael Gallagher,

Manager, Small Airplane Directorate.

[FR Doc. 03–14993 Filed 6–12–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Policy Statement PS–ACE100–2002–002, Installation Approval of Multi-Function Displays Using the Approved Model List (AML) Supplemental Type Certification (STC) Process

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of issuance of policy

SUMMARY: This notice announces a revision to Policy Statement PS–ACE100–2002–002, Installation Approval of Multi-Function Displays Using the Approved Model List (AML) Supplemental Type Certification (STC) Process. Appendix A has been added to the original policy to describe a process for approval of multi-function displays that provide supplemental navigation information during Instrument Flight Rules (IFR) operation. Minor editorial changes to the policy statement have been incorporated.

DATES: Policy Statement Number PS–ACE100–2002–002 with Revision A was issued by the Manager, Small Airplane Directorate, ACE–100, Aircraft Certification Service, on May 21, 2003.

How To Obtain Copies: A paper copy of the Policy Statement Number PS–ACE100–2002–002 with the appendix may be obtained by contacting Barry Ballenger, Aerospace Engineer, FAA, Small Airplane Directorate, Continued Operational Safety, ACE–113, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4152; facsimile: (816) 329–4149; e-mail: *barry.ballenger@faa.gov.* The policy revision with the appendix will also be available soon on the Internet at: *http://www.airweb.faa.gov/policy.*

SUPPLEMENTARY INFORMATION: The FAA encourages the use of the AML STC process for installation approval of MFDs.

Discussion

This appendix and policy statement do not introduce new policy or regulation but provide a compilation of existing regulation, guidance, and procedures in the application of the AML STC process for certification projects. The AML STC process may be used whenever the ACO and applicant agree that it is appropriate. The AML STC process may also be effective for a certification project of an aircraft under another certification basis. The applicant should coordinate with the appropriate ACO for final determination.

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

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–14994 Filed 6–12–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34342]

Kansas City Southern—Control—The Kansas City Southern Railway Company, Gateway Eastern Railway Company, and The Texas Mexican Railway Company

AGENCY: Surface Transportation Board, DOT.

ACTION: Decision No. 2 in STB Finance Docket No. 34342; Notice of Acceptance of Railroad Control Application; Issuance of Procedural Schedule.

SUMMARY: The Surface Transportation Board (Board) is accepting for consideration the KCS–3/TM–3 railroad control application (referred to as the KCS/TM application) filed May 14, 2003, by Kansas City Southern (KCS), The Kansas City Southern Railway Company (KCSR), Gateway Eastern Railway Company (GWER), The Texas Mexican Railway Company (Tex Mex or TM), and Mexrail, Inc. (Mexrail).[1] The KCS/TM application seeks Board approval and authorization under 49 U.S.C. 11321–26 for KCS, which already controls KCSR and GWER, to acquire control of Tex Mex. The Board finds that the transaction proposed in the KCS/TM application is a ''minor transaction'' under 49 CFR 1180.2(c), although the applicants are subject to the expanded and enhanced requirements discussed herein.

The Board has considered applicants' petition to establish a procedural schedule, also filed May 14, 2003. With a modification to reflect that the KCS/TM application was filed on May 14, 2003, and with further modifications principally intended to allow time for a public hearing and to allow interested parties additional time to file comments, the Board is adopting applicants' proposed procedural schedule, as modified. This will allow the Board to issue a decision 45 days after the close of the record and 24 days prior to the statutory deadline, assuming that no unanticipated environmental review is required and that no oral argument is held.

DATES: The effective date of this decision is June 13, 2003. Applicants must submit their Environmental Appendix and Safety Integration Plan (SIP) to the Board, and must supplement their application in the manner indicated below, by June 23, 2003. Any person who wishes to participate in this proceeding as a party of record (POR) must file, no later than June 27, 2003, a notice of intent to participate. Applicants must distribute their Environmental Appendix and SIP to parties of record and other designated entities, and must initiate publication of newspaper notices, by July 1, 2003. A public hearing will be held in late July 2003; the precise date and the location will be announced later. All comments on applicants' Environmental Appendix and SIP must be filed by July 31, 2003. All comments, protests, requests for conditions, and any other evidence and argument in opposition to the KCS/TM application, including filings by the U.S. Department of Justice (DOJ) and the U.S. Department of Transportation (DOT), must be filed by August 4, 2003. Responses to comments, protests, requests for conditions, and other opposition, responses to comments of DOJ and DOT, and rebuttal in support of the KCS/TM application must be filed by September 2, 2003. For further information respecting dates, see Appendix A (Procedural Schedule).

ADDRESSES: Send an original and 25 copies of all pleadings referring to STB Finance Docket No. 34342 to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.[2] In addition, one copy of all documents in this proceeding must be sent to: (1) Secretary of the United States Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590; (2) Attorney General of the United States, c/o Assistant Attorney General, Antitrust Division, Room 3645, Department of Justice, Washington, DC 20530; (3) William A. Mullins, Esq., Troutman Sanders LLP, 401 Ninth Street, NW., Suite 1000, Washington, DC 20004–2134; and (4) Richard H. Streeter, Esq., Barnes & Thornburg, 750 Seventeenth Street, NW., Suite 900, Washington, DC 20006.

In addition to submitting an original and 25 copies of all paper documents filed with the Board, parties also must submit, on 3.5-inch IBM-compatible floppy diskettes (disks) or compact discs (CDs), copies of all textual materials, electronic workpapers, data bases, and spreadsheets used to develop quantitative evidence. Textual materials must be in, or compatible with, WordPerfect 10.0. Electronic spreadsheets must be in, or compatible with, Lotus 1–2–3 Release 9 or Microsoft Excel 2002. A copy of each disk or CD submitted to the Board should be provided to any other party upon request. Further details are discussed below.

FOR FURTHER INFORMATION CONTACT: Julia M. Farr, (202) 565–1655.

(Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.)

SUPPLEMENTARY INFORMATION: The KCS/TM common control for which applicants seek approval in the KCS/TM application involves the acquisition by KCS of control of Tex Mex.

Kansas City Southern. KCS, a noncarrier holding company, currently controls two rail carriers: KCSR and GWER.

The Kansas City Southern Railway Company. KCSR, a Class I railroad,[3] is a wholly owned direct subsidiary of KCS. KCSR owns and operates approximately 3,100 miles of main and

[1] KCS, KCSR, GWER, Tex Mex, and Mexrail are referred to collectively as ''applicants.'' The application does not list Mexrail as an applicant, but Mexrail clearly is a party to the transaction. Consistent with our practice, we will treat Mexrail as an applicant. *See, e.g., Union Pacific/Southern Pacific Merger,* 1 S.T.B. 233, 241 n.3 (1996); *CSX Corp. et al.—Control—Conrail Inc.et al.,* 3 S.T.B. 196, 207 n.3 (1998).

[2] For a document to be considered a formal filing, the Board must receive an original and 25 copies of the document, which must show that it has been properly served. Documents transmitted by facsimile (FAX) will not be considered formal filings and are not encouraged because they will result in unnecessarily burdensome, duplicative processing. In addition, each formal filing must be accompanied by an electronic submission per the Board's requirements as discussed in detail in this decision.

[3] The Board's regulations divide railroads into three classes based on annual carrier operating revenues. Class I railroads are those with annual carrier operating revenues of $250 million or more (in 1991 dollars); Class II railroads are those with annual carrier operating revenues of more than $20 million but less than $250 million (in 1991 dollars); and Class III railroads are those with annual carrier operating revenues of $20 million or less (in 1991 dollars). *See* 49 CFR Part 1201, General Instruction 1–1(a).

branch lines in 10 midwestern and southern states (Kansas, Missouri, Illinois, Oklahoma, Arkansas, Tennessee, Texas, Louisiana, Mississippi, and Alabama). KCSR's principal routes extend from Kansas City, MO, via Shreveport, LA, to Beaumont/Port Arthur, TX, Lake Charles, LA, and New Orleans, LA. KCSR also has a route extending from Dallas, TX, via Shreveport, LA, to Meridian, MS, and a branch line route extending north out of Alexandria, LA, to Hope, AR. KCSR's major terminals are: Kansas City and St. Louis, MO; Shreveport, Lake Charles, Baton Rouge, and New Orleans, LA; Beaumont, Port Arthur, and Dallas, TX; and Vicksburg, Jackson, Meridian, and Gulfport, MS. KCSR also provides service, via haulage rights, over 1,200 miles of lines of other railroads, most prominently over lines of Union Pacific Railroad Company (UP) between Springfield and Chicago, IL, between Omaha, NE/Council Bluffs, IA, Lincoln, NE, Topeka and Atchison, KS, and Kansas City, MO, and between Beaumont and Houston/Galveston, TX, and over lines of The Burlington Northern and Santa Fe Railway Company (BNSF) between Kansas City, MO, and Council Bluffs, IA. KCSR also owns a non-controlling 16.6% interest in the Kansas City Terminal Railway Company and a non-controlling 50% interest in the Kansas City Joint Agency, both of which are located in Kansas City, MO.

Gateway Eastern Railway Company. GWER, a Class III railroad, is a wholly owned direct subsidiary of KCSR. GWER owns and operates approximately 17 miles of rail lines between East Alton, IL, and East St. Louis, IL. GWER also operates via trackage rights over 5 miles of Terminal Railroad Association of St. Louis track between WR Tower and Willows Tower, IL, and over 11.07 miles of The Alton and Southern Railway Company track between Lenox Tower and Rose Lake, IL. *See* KCS–3 at 217. GWER is primarily engaged in industrial switching in the Alton and Wood River, IL areas.

The Texas Mexican Railway Company. Tex Mex, a Class II railroad, is a wholly owned direct subsidiary of Mexrail. Tex Mex owns and operates 157 miles of rail line between Laredo and Corpus Christi, TX. Pursuant to a 1996 Board order, *see Union Pacific/Southern Pacific Merger,* 1 S.T.B. at 421–26, Tex Mex also operates via trackage rights over approximately 379 miles of UP lines between Robstown and Beaumont, TX, via Placedo, Victoria, Flatonia, Rosenberg, and Houston, TX. Tex Mex interchanges with KCSR at Beaumont, TX; with The Houston Belt & Terminal Railway Company and The Port Terminal Railway Association at Houston, TX; with BNSF at Corpus Christi, Houston, and Robstown, TX; with UP at Corpus Christi, Houston, Laredo, Robstown, and Victoria, TX; and with TFM, S.A. de C.V. (TFM), on the International Rail Bridge that spans the Rio Grande River between Laredo, TX, and Nuevo Laredo, Tamaulipas, Mexico.[4]

Mexrail. Prior to May 9, 2003, Mexrail, a noncarrier, was a wholly owned direct subsidiary of TFM. Mexrail owns two assets: (1) 100% of the shares of Tex Mex; and (2) 100% of the U.S. portion of the bridge structure (but not the track, which is owned by Tex Mex, *see* KCS–3 at 220) of the International Rail Bridge that runs between Laredo (on the U.S. side of the border) and Nuevo Laredo (on the Mexican side of the border).[5]

TFM. TFM, a railroad located entirely in Mexico, operates from Nuevo Laredo south to Monterrey, San Luis Potosi, Queratarо, and Mexico City, and, from the Queratarо-Mexico City area, west to Lazero Cardenas and east to Veracruz. TFM owns no U.S. property and does not operate in the U.S.[6] (1) TFM, which (prior to May 9, 2003) held a 100% ownership interest in Mexrail, is owned by Grupo Transportación Ferroviaria Mexicana, S.A. de C.V. (Grupo TFM, which owns an 80% interest in TFM) and the Mexican Federal Government (which owns a 20% interest in TFM).[7] (2) Grupo TFM is owned by NAFTA Rail, S.A. de C.V. (''NAFTA Rail #1,'' which owns a 36.9% interest in Grupo TFM), TMM Multimodal (which owns a 38.5% interest in Grupo TFM), and TFM (which holds a 24.6% interest, with limited voting rights, in Grupo TFM, its 80% parent). (3) NAFTA Rail #1 is a wholly owned indirect subsidiary of KCS.[8] (4) TMM Multimodal is a 96.3%-owned direct subsidiary of TMM Holdings, S.A. de C.V., which is itself a wholly owned direct subsidiary of Grupo TMM, S.A. (Grupo TMM, a noncarrier).[9]

Two Transactions: KCS/TM and KCS/TFM. On April 21, 2003, KCS and Grupo TMM announced a series of agreements that contemplate two ''separate'' transactions, which are referred to as the KCS/TM transaction (this transaction contemplates the acquisition, by KCS, of control of Tex Mex) and the KCS/TFM transaction (this transaction contemplates the acquisition, by KCS, of control of TFM). Neither of these two transactions is contingent upon the other. The KCS/TM transaction has been submitted to the Board for regulatory approval, and is the subject of this decision. The KCS/TFM transaction has not been, and will not be, submitted to the Board for regulatory approval. If these two transactions are consummated, KCS—which, as part of the KCS/TFM transaction, will change its name to ''NAFTA Rail'' (referred to

[4] Over 50% of all rail freight interchanged between the U.S. and Mexico passes over the International Rail Bridge at Laredo.

[5] Applicants advise that Mexrail has been treated as a noncarrier since its creation, and that they are aware of only one instance in which there has ever been even so much as a suggestion that Mexrail is a carrier. The one instance they cite, *see* KCS–3 at 19 n.12, was a ''passing statement'' by the Board that ''Mexrail is a carrier.'' *See Mexrail, Inc.* v. *Union Pacific Railroad Company and Missouri Pacific Railroad Company,* STB Finance Docket No. 32980 (*Mexrail*) (STB served July 13, 2000), slip op. at 5 n.9 (whereas Tex Mex owns the track on the U.S. half of the bridge, Mexrail owns the underlying ''superstructure'' of the bridge). Under these circumstances, applicants are justified in treating Mexrail as a noncarrier (and they are therefore justified in not seeking authority for KCS to control Mexrail).

[6] TFM connects, on the International Rail Bridge that runs between Laredo and Nuevo Laredo, with two U.S. railroads: Tex Mex and UP. Traffic is interchanged, at the middle of the Bridge, between TFM, on the Mexican side, and Tex Mex and UP, on the U.S. side. *See* KCS–3 at 221.

[7] Applicants have advised that Grupo TFM's owners are under an obligation to acquire the Mexican Government's 20% interest in TFM in 2003 unless the Mexican Government ''prior to that date sells shares in a public offering.'' KCS–3 at 12 n.4.

[8] Two points respecting the indirect interest that KCS holds in Grupo TFM are addressed in this footnote. (1) Applicants have indicated that NAFTA Rail #1 is a wholly owned indirect subsidiary not only of KCS but also of KCSR, which (as has already been noted) is itself a wholly owned direct subsidiary of KCS. *See* KCS–3 at 13. If NAFTA Rail #1 were owned by KCS in a single corporate chain that ran through KCSR, NAFTA Rail #1 would indeed be a wholly owned indirect subsidiary of both KCS and KCSR. Applicants have also indicated, however, that NAFTA Rail #1 is owned by KCS via two corporate chains, only one of which runs through KCSR. *See* KCS–3 at 13. The two claims (the claim that NAFTA Rail #1 is a wholly owned indirect subsidiary of KCSR, and the claim that NAFTA Rail #1 is owned by KCS via two corporate chains, only one of which runs through KCSR) cannot both be true. (2) Applicants have indicated that KCS currently owns ''an approximate 47% stake'' in Grupo TFM. *See* KCS–3 at 12. *See also* KCS–3 at 55 n.1 (applicants indicate that Grupo TFM is ''effectively owned'' 46.5% by KCS) and KCS–3 at 73 (applicants indicate that KCS has ''an economic interest'' in Grupo TFM of approximately 46.5%). It is not clear how this calculation was derived. It may, perhaps, have been derived by dividing 36.9% (the interest in Grupo TFM held by KCS through intermediaries) by the sum of 36.9% and 38.5% (the interests in Grupo TFM not held by Grupo TFM's 80%-owned subsidiary), which would yield approximately 48.9%.

[9] Although applicants generally refer to Grupo TMM, S.A., as ''TMM,'' *see* KCS–3 at 8, this decision refers to Grupo TMM, S.A., as ''Grupo TMM,'' to avoid confusion (by using a consistent naming practice that reflects the fact that each ''Grupo'' entity sits at the top of its respective corporate chain, *see* KCS–3 at 13).

as NAFTA Rail #2) [10]—will control, directly or through one or more corporate intermediaries, four railroads (KCSR, GWER, Tex Mex, and TFM), all of which will be operated as separate subsidiaries under common control.

The KCS/TM Transaction; Purchase Price; Voting Trust. One of the agreements announced on April 21, 2003 (referred to as the KCS/TM Stock Purchase Agreement) contemplated the acquisition by KCS, from TFM, of 51% of TFM's 100% interest in Mexrail, in exchange for approximately $32.7 million in cash. On May 9, 2003, KCS consummated the acquisition (the purchase price was apparently paid on May 9th) and acquired a 51% interest in Mexrail.[11] KCS advises that, to avoid any violation of 49 U.S.C. 11323 *et seq.*, it immediately placed the shares of Mexrail and Tex Mex (*i.e.*, KCS's 51% interest in Mexrail, and Mexrail's 100% interest in Tex Mex), *see* KCS–3 at 19 n.12, into an independent irrevocable voting trust that was established pursuant to an agreement (referred to as the KCS/TM Voting Trust Agreement) that, KCS claims, is consistent with 49 CFR part 1013. KCS advises that, if and when the Board approves the acquisition by KCS of control of Tex Mex, the voting trust will be dissolved, KCS will take full ownership of its 51% interest in Mexrail, and Mexrail will reassume full ownership of its 100% interest in Tex Mex.[12]

The KCS/TFM Transaction; Purchase Price; Several Contingencies. Two or more of the agreements announced on April 21, 2003, contemplate the acquisition by KCS of control of TFM. The KCS/TFM transaction envisioned by these agreements contemplates that Kansas City Southern will be renamed ''NAFTA Rail'' (referred to as NAFTA Rail #2); that NAFTA Rail #2 will acquire TMM Multimodal's 38.5% interest in Grupo TFM, which, when combined with NAFTA Rail #2's (*i.e.*, KCS's) present 36.9% interest, will give NAFTA Rail #2 a controlling interest in Grupo TFM, and, therefore, a controlling interest in TFM; [13] and that TMM Multimodal will receive 18 million shares of NAFTA Rail #2 representing an approximately 22% (20% voting, 2% subject to voting restrictions) interest in NAFTA Rail #2, plus $200 million in cash and a potential incentive payment of between $100 million and $180 million based on the resolution of certain contingencies.[14] The KCS/TFM transaction, including the change of name from Kansas City Southern to NAFTA Rail, is contingent upon obtaining adequate financing, the approval of the shareholders of KCS, the approval of the shareholders of Grupo TMM, the Hart-Scott-Rodino process at the U.S. Department of Justice (DOJ), the approval of the Mexican Competition Commission, and the approval of the Mexican Foreign Investment Commission.[15]

The KCS/TM Transaction: Public Interest Considerations. Applicants contend that bringing the KCSR/GWER and Tex Mex systems under common control represents one more step in KCS's efforts to develop a ''NAFTA Railroad'' that will connect Canada, the U.S., and Mexico and provide seamless, efficient, and competitive rail service in all of North America.[16] Common control of KCSR/GWER and Tex Mex, applicants argue, will provide more efficient routing and service options to shippers; it will make possible better coordination of marketing, improved customer service, and improved single-line service; it will allow KCSR/GWER and Tex Mex to reduce expenses and rationalize operations; it will make possible full integration of KCS's Management Control System (MCS),[17] improved freight car utilization, improved performance of the locomotive fleet, reduced time-keeping and payroll-processing costs, and consolidation of general and administrative functions; it will provide financial stability to Tex Mex, which (applicants note) has from time to time in recent years found itself hard pressed to keep pace with the increasing traffic volumes available; and, finally, it will help position KCSR to remain a competitive, independent, and viable carrier. Applicants argue that the combined KCSR/GWER-Tex Mex system will be stronger, financially and operationally, than either system could be separately. Applicants assert that they will be in a better position to provide an effective competitive alternative at Laredo, and better able to compete with other railroads, motor carriers, and barges in providing effective and efficient service to the shipping public.[18]

Applicants further contend that common control of KCSR/GWER and Tex Mex will not result in any loss of competitive rail options for any shipper or any receiver. There are, applicants argue, no shippers or receivers receiving rail service from KCSR/GWER and Tex Mex for which common control would reduce the number of independent railroads serving them from three to two or from two to one. Applicants advise that KCSR/GWER and Tex Mex share only one common connection (at Beaumont, TX). The KCS/TM transaction, applicants maintain, involves an end-to-end connection whereby two carriers that already share common ownership and operating practices will finally be combined under a unified management team. Applicants contend that common control of KCSR/GWER and Tex Mex will not result in a substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in

[10] The new ''NAFTA Rail'' (*i.e.*, the renamed Kansas City Southern referred to as NAFTA Rail #2) should be distinguished from the old ''NAFTA Rail'' (''NAFTA Rail, S.A. de C.V.,'' the wholly owned indirect subsidiary of KCS that is referred to as NAFTA Rail #1).

[11] Although KCS has already purchased 51% of TFM's 100% interest in Mexrail, KCS also has a call on the remaining 49% of TFM's 100% interest in Mexrail. This call apparently allows KCS to purchase the remaining 49% interest. *See* KCS–3 at 14.

[12] The KCS/TM transaction (*i.e.*, the acquisition, by KCS, of a 51% interest in Tex Mex) is subject to the jurisdiction of the Board under § 11323(a)(5) (''Acquisition of control of a rail carrier by a person that is not a rail carrier but that controls any number of rail carriers.'').

[13] The KCS/TM application does not appear to state explicitly that NAFTA Rail #2 will acquire *all* of TMM Multimodal's 38.5% interest in Grupo TFM. The context, however, suggests that NAFTA Rail #2 will indeed acquire all of TMM Multimodal's 38.5% interest.

[14] Applicants indicate that the contingencies mainly involve a value added tax dispute in Mexico. *See* KCS–3 at 54.

[15] Although section 11323(a)(5) (''Acquisition of control of a rail carrier [TFM] by a person that is not a rail carrier [KCS] but that controls any number of rail carriers [KCSR and GWER, and, after the termination of the voting trust, Tex Mex]'') might suggest the applicability of this provision to acquisition of control of TFM by KCS, this provision is not applicable in this context because the Board has no jurisdiction over the acquisition of control of a rail carrier—like TFM—that is located entirely outside the United States. Similarly, although § 11323(a)(4) (''Acquisition of control of at least 2 rail carriers [KCSR, GWER, and, after the termination of the voting trust, Tex Mex] by a person that is not a rail carrier [Grupo TMM]'') might conceivably be applicable to the acquisition of a 20% (or 22%) interest in KCS by Grupo TMM, it has long been understood that acquisition of control by a noncarrier of any number of carriers operating as a ''single established system'' is not subject to § 11323(a)(4). *Fox Valley & Western Ltd.—Exempt., Acq. and Oper.,* 9 I.C.C.2d 209, 217–18 (1992) (citing cases).

[16] The North American Free Trade Agreement is referred to as NAFTA.

[17] MCS is a computerized shipment and billing management system.

[18] Applicants anticipate that, as a result of common control of KCSR/GWER and Tex Mex, approximately 6,313 carloads of traffic will be diverted to the combined KCSR/GWER-Tex Mex system annually (by the end of the third year following the consummation of common control), generating additional annual revenues of approximately $14.3 million. Applicants predict that much of the diverted traffic will be interchanged with eastern carriers CSX Transportation, Inc. and Norfolk Southern Railway Company (NS). *See* KCS–3 at 221. Applicants further anticipate that common control will result in net operating-expense savings of approximately $3.3 million annually.

any region of the United States. And, applicants add, in view of the fact that the KCS/TM transaction occurs in a market in which motor carriers are the dominant mode of transportation, this transaction cannot have an adverse impact on competition.[19]

Applicants also contend that the KCS/TM transaction is not anticompetitive because it does not call for cancellation of any cooperative agreements with other carriers. These agreements include a 1997 NS–KCSR–Tex Mex marketing agreement (renewed in 2000 for 3 years) for traffic moving into Texas and Mexico, the KCSR–CN/IC Alliance,[20] and a 2002 BNSF–KCSR marketing agreement. Applicants add that these agreements provide valuable carloads to the KCSR and Tex Mex systems and form the backbone of the competitive alternative currently provided by KCSR and Tex Mex for NAFTA traffic. They further contend that, because of these agreements, shippers have a choice and do not have to depend solely upon UP or the trucking industry for shipment of their NAFTA traffic. Applicants state that, to improve Tex Mex's financial stability, KCSR intends to work with all of its connecting carriers to increase the amount of traffic flowing over Tex Mex. Applicants acknowledge that, although they will honor all Tex Mex agreements pursuant to the terms, any agreement that does not provide adequate revenues will be reviewed, and, upon expiration, will be renegotiated or not renewed. *See* KCS–3 at 60 n.3.

Labor Protection. Applicants acknowledge that the applicable level of labor protection for the proposed KCS/TM transaction is that set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.,* 360 I.C.C. 60, 84–90 (1979). Applicants state that the existing collective bargaining agreements for KCSR and Tex Mex will remain in force. They explain that the implementation of KCSR's MCS on Tex Mex will result in the elimination of a limited number of employee positions and that other anticipated operating economies will result in the elimination of a limited number of positions in marketing management, time-keeping and payroll processing, and a limited number of positions involved with car and locomotive pool. The applicants further acknowledge the possibility that significant changes may occur as they gain experience in the course of implementing common control of KCS and TM. *See* KCS–3 at 158.

KCS/TM Application Accepted. The Board agrees with applicants that the KCS/TM common control transaction may be considered as a ''minor transaction'' under 49 CFR 1180.2(c), and the Board accepts the KCS/TM application for consideration because it is in substantial compliance with the applicable regulations governing minor transactions. *See* 49 U.S.C. 11321–26; 49 CFR part 1180.[21]

But while the KCS/*TM* transaction may be designated as ''minor'' from a regulatory standpoint, the broader transaction, incorporating the related KCS/*TFM* component, could be very significant. Indeed, if the KCS/TFM transaction were subject to the jurisdiction of the Board—which it is not—it would be categorized as a ''major'' transaction because TFM's size would make it a Class I railroad if it were in the U.S. Moreover, the significance of the role played by TFM in the U.S.-Mexico NAFTA corridor cannot be ignored.

Thus, UP has asked that applicants nevertheless be required to supplement their application to address the implications of the KCS/TFM transaction on the KCS/TM transaction (UP–1 pleading, filed May 27, 2003).[22] UP expressed concern that TFM will not remain an independent and neutral connection at Laredo. UP argues that the KCS/TFM transaction must be evaluated on a record that includes the effect of the KCS/TFM transaction on the KCS/TM transaction and on competition within the U.S.

Notwithstanding that the two transactions nominally are separate and independent of each other, in reality they are two components of a single, larger transaction with broader potential implications in the U.S. Thus, as UP has pointed out, the Board should be prepared to address these effects. Accordingly, the Board will require that, by June 23, 2003, applicants must supplement the KCS/TM application to reflect the implications of the broader transaction for competition within the U.S. In particular, applicants should submit the information specified in 49 CFR 1180.1(k)(1) and 1180.11. Because the applicants likely have already prepared much, if not all, of this information for other purposes or after receiving UP's filing, they should be able to submit the necessary supplemental information by that date.[23]

Public Inspection. The KCS/TM application is available for inspection in the Docket File Reading Room (Room 755) at the offices of the Surface Transportation Board, 1925 K Street, NW., in Washington, DC. In addition, it may be obtained from applicants' representatives (Mr. Mullins, for KCS, KCSR, and GWER; Mr. Streeter, for Tex Mex and Mexrail) at the addresses indicated above.

Procedural Schedule. Applicants have indicated that they would like to release Tex Mex from the voting trust as soon as possible. They have therefore proposed a 128-day procedural schedule that provides for issuance of a decision by the Board on September 19, 2003, with an effective date of September 24, 2003.[24]

The Board is adopting a 156-day procedural schedule [25] that, although 28 days longer than applicants suggest, still provides for less total time than the 180-day procedural schedule (30 days + 105 days + 45 days) established by the deadlines set forth at 49 U.S.C. 11325(a), (d)(2).[26] Applicants' suggested

[19] Applicants also maintain that KCSR/GWER–Tex Mex common control will not adversely impact the essential services provided by any rail carrier. Applicants estimate that common control will result in losses of 4,123 cars a year to UP (allegedly representing 1.7% of all cars delivered or picked up by UP at Laredo, TX) and 1,692 cars a year to BNSF (allegedly representing 17% of all cars delivered or picked up by BNSF at Brownsville, TX). *See* KCS–3 at 122.

[20] Canadian National Railway Company is referred to as CN. Illinois Central Railroad Company is referred to as IC.

[21] The Board reserves the right to require the filing of supplemental information from applicants or any other party or individual, if necessary to complete the record in this matter.

[22] UP's request that applicants be required to supplement the KCS/TM application has been endorsed by E.I. du Pont de Nemours and Company (DuPont) in a pleading filed June 2, 2003. BNSF has also requested supplementation. *See* BNSF–1 (filed June 3, 2003) at 2–10.

[23] Should applicants need additional time to prepare the necessary supplemental information, they may request appropriate revisions to this schedule.

[24] Applicants contend that, because Tex Mex is now operating under a voting trust arrangement, the KCS/TM application should be approved and made effective on as expeditious a schedule as is possible.

[25] The schedule adopted here is similar, in key respects, to the schedule proposed by UP (in its UP–1 pleading, filed May 27, 2003), which is endorsed by DuPont (in its pleading filed June 2, 2003). Likewise, the schedule is also similar to that proposed by The National Industrial Transportation League (in its NITL–2 pleading, filed June 3, 2003). The adopted schedule should afford all non-applicant parties sufficient time to seek discovery regarding all relevant impacts of the Tex Mex transaction and to prepare and submit comments on the impacts of the transactions as requested by CN (in its CN–2 pleading, filed June 3, 2003). The Board realizes that, although the adopted schedule does not give non-applicant parties the 45 days one of them seeks for filing comments after the applicants' submission of supplemental information (see BNSF–1 at 13, filed June 3, 2003), in affording them 42 days, it has essentially accommodated that request.

[26] The Board expects that applicants have adhered to their promise to provide copies of the KCS/TM application to certain parties that had previously requested copies of the application and to all parties required by regulation. The Board further expects that applicants have also adhered

Continued

procedural schedule for this transaction would be shorter than others of its scope. The schedule announced today is consistent with the schedule for similar prior transactions. Applicants must submit their Environmental Appendix and Safety Integration Plan (SIP) to the Board, and supplement the KCS/TM application to reflect the implications, for KCS/TM common control, of KCS/TFM common control, by June 23, 2003. Any person who wishes to participate in this proceeding as a party of record (POR) must file, no later than June 27, 2003, a notice of intent to participate. Applicants must distribute their Environmental Appendix and SIP to parties of record and other designated entities, and must initiate publication of newspaper notices, by July 1, 2003. A public hearing will be held in July 2003 (the precise date and the location will be announced later). All comments on applicants' Environmental Appendix and SIP must be filed by July 31, 2003. Comments, protests, requests for conditions, and any other evidence and argument in opposition to the KCS/TM application, including filings by the U.S. Department of Justice (DOJ) and the U.S. Department of Transportation (DOT), must be filed by August 4, 2003.[27] Responses to comments, protests, requests for conditions, and other opposition, responses to comments of DOJ and DOT, and rebuttal in support of the KCS/TM application must be filed by September 2, 2003. The Board's decision will be issued on October 17, 2003 (the 156th day after the date on which the KCS/TM application was filed, and the 45th day after the close of the record). If, however, it is determined that an Environmental Assessment or Environmental Impact Statement is required, the procedural schedule will be adjusted as necessary. Also, if an oral argument is held, the Board's decision will be issued no later than the 45th day after the date on which the oral argument is held.[28]

Notice of Intent to Participate. Any person who wishes to participate in this proceeding as a POR must file with the Board, no later than June 27, 2003, an original and 25 copies of a notice of intent to participate, accompanied by a certificate of service indicating that the notice has been properly served on the Secretary of the United States Department of Transportation, the Attorney General of the United States, and applicants' representatives. In addition, as previously noted, parties must submit one electronic copy of each document filed with the Board. Further details respecting such electronic submissions are provided below.

The Board will serve, as soon as practicable, a notice containing the official service list (the service list notice). Each POR will be required to serve upon all other PORs, within 10 days of the service date of the service list notice, copies of all filings previously submitted by that party (to the extent such filings have not previously been served upon such other parties). Each POR also will be required to file with the Board, within 10 days of the service date of the service list notice, an original plus 10 copies of a certificate of service, along with an electronic copy, indicating that the service required by the preceding sentence has been accomplished. Every filing made by a POR after the service date of the service list notice must have its own certificate of service indicating that all PORs on the service list have been served with a copy of the filing. Members of the United States Congress (MOCs) and Governors (GOVs) are not parties of record (PORs), and therefore, need not be served with copies of filings, unless any such Member or Governor has requested to be, and is designated as, a POR.

The Board will serve copies of its decisions, orders, and notices only on those persons who are designated on the official service list as either POR, MOC, or GOV. All other interested persons are encouraged to make advance arrangements with the Board's copy contractor, Dā 2 Dā Legal Copy Service, to receive copies of Board decisions, orders, and notices served in this proceeding. Dā 2 Dā Legal Copy Service will handle the collection of charges and the mailing and/or faxing of decisions, orders, and notices to persons who request this service. The telephone number for Dā 2 Dā Legal Copy Service is (202) 293–7776.[29]

Public Hearing. A hearing at which members of the public may voice their views regarding the KCS/TM transaction will be held in July 2003. The precise date and location of the public hearing will be announced later. A public hearing is somewhat informal and the views expressed are not expected to be ''legal'' arguments. On the other hand, an oral argument is more formal and the lawyers representing the parties in a proceeding are expected to express ''legal'' views regarding any matters that are in dispute. It is possible that an oral argument may be held in this proceeding at a later date.

Comments, Protests, Requests for Conditions, and Other Opposition Evidence and Argument, Including Filings by DOJ and DOT. All comments, protests, requests for conditions, and any other evidence and argument in opposition to the KCS/TM application, including filings by DOJ and DOT, must be filed by August 4, 2003.

Parties (including DOJ and DOT) filing such comments, etc., must submit an original and 25 copies thereof. Each such submission: must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001; must refer to STB Finance Docket No. 34342; and must be clearly labeled with an identification acronym and number (*e.g.*, the KCS/TM application was labeled ''KCS–3''), *see* 49 CFR 1180.4(a)(2). In addition, as previously noted, parties must submit one electronic copy of each document filed with the Board. Further details respecting such electronic submissions are provided below.

Comments, etc., must be concurrently served by first class mail on the U.S. Attorney General and the U.S. Secretary of Transportation, applicants' representatives, and all other PORs, and should include the docket number and title of the proceeding, and the name, address, and telephone number of the commenting party and its representative upon whom service shall be made.

(and will continue to adhere) to their promise to provide, promptly upon request, copies of the KCS/TM application to any other party. The Board understands that applicants' promises rest on the assumption that the parties requesting the KCS/TM application have complied with the protective order granted in Decision No. 1 (served May 13, 2003). *See* applicants' procedural schedule petition at 6 n.3.

[27] DOT, in its DOT–1 pleading (filed June 2, 2003), has asked that the procedural schedule be modified to accommodate its past practice of filing comments not only in response to the application itself but also in response to the comments filed by other parties. As in past proceedings, DOT will be allowed to file its comments in response to other parties' comments on the reply due date (here, September 2, 2003). Applicants will be allowed to late-file (as quickly as possible) a reply to DOT's responsive comments. In this manner, the procedural schedule will not be extended unnecessarily.

[28] If the Board ultimately approves the KCS/TM application, consideration will be given to applicants' request that the decision take effect on the 5th day (and not, as is customary, the 30th day) after the date of service.

[29] An interested person does not need to be on the service list to obtain a copy of the KCS/TM application or any other filing made in this proceeding. The Board's Railroad Consolidation Procedures provide: ''Any document filed with the Board (including applications, pleadings, etc.) shall be promptly furnished to interested persons on request, unless subject to a protective order.'' 49 CFR 1180.4(a)(3). The KCS/TM application and other filings in this proceeding will also be available on the Board's Web site at ''*http://www.stb.dot.gov*'' under ''Filings.'' Furthermore, Dā 2 Dā Legal Copy Service will provide, for a charge, copies of the KCS/TM application or any other filing made in this proceeding, except to the extent any such filing is subject to the protective order previously entered in this proceeding.

Because the KCS/TM common control transaction proposed in the KCS/TM application has been determined to be a minor transaction, no responsive applications will be permitted. *See* 49 CFR 1180.4(d)(1).

Protesting parties are advised that, if they seek either the denial of the KCS/TM application or the imposition of conditions upon any approval, on the theory that approval (or approval without imposition of conditions) will harm competition and/or their ability to provide essential services, they must present substantial evidence in support of their positions. *See Lamoille Valley R.R. Co.* v. *ICC,* 711 F.2d 295 (DC Cir. 1983).

Responses to Comments, Protests, Requests for Conditions, and other Opposition, Including DOJ and DOT; Rebuttal in Support of KCS/TM Application. Responses to comments, protests, requests for conditions, and other opposition submissions, responses to comments of DOJ and DOT, and rebuttal in support of the KCS/TM application must be filed by September 2, 2003.

Environmental Matters. Applicants assert in their application that the proposed KCS/TM transaction will have insignificant environmental effects and therefore does not require a formal environmental review under the National Environmental Policy Act of 1969 (NEPA). Applicants state that the transaction will not result in changes in carrier operations that would exceed the thresholds triggering environmental review established in the Board's environmental rules at 49 CFR 1105.7(e)(4) or (5).[30] Applicants further state that, under 49 CFR 1105.8(b)(1) and (3), the transaction is exempt from historic preservation reporting requirements because rail operations will continue after consummation of common control, further Board approval would be required to abandon any service, and there are no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older. Finally, applicants explain that the transaction is subject to a ''categorical exclusion'' from environmental analysis under NEPA and the Board's environmental rules.[31]

The information set forth in the application is sufficient to create a presumption that this transaction is covered by a categorical exclusion. However, the Board's Section of Environmental Analysis (SEA) must independently determine whether applicants' transaction is appropriately exempt from NEPA. To assist SEA in determining whether formal environmental review of the transaction is necessary, the Board has directed applicants to prepare an Environmental Appendix providing additional details and explanation, including maps, supporting applicants' conclusion that this transaction does not warrant environmental documentation. Applicants shall submit the Environmental Appendix to SEA by June 23, 2003.

Applicants also have been working with the Federal Railroad Administration (FRA) to develop a Safety Integration Plan (SIP), pursuant to the joint regulations adopted by FRA and the Board to ensure adequate and coordinated consideration of safety integration issues by both the Board and FRA. *See* 49 CFR Parts 244 and 1106. The SIP will specifically address the process of safely combining applicants' systems, if the proposed transaction is approved. Applicants shall submit their SIP to SEA by June 23, 2003.

To facilitate public review and comment on all aspects of the Environmental Appendix and the SIP, applicants must, by July 1, 2003, distribute the Environmental Appendix and the SIP to all parties of record and to appropriate agencies (consisting of the regional offices of the U.S. Environmental Protection Agency and the Governor's Office and state equivalent of EPA in each state in which KCS owns track). Applicants must also, by July 1, 2003, publish a notice in major newspapers in communities between Beaumont, TX, and Laredo, TX, with populations more than 5,000 people, alerting the public that the Environmental Appendix and SIP are available and explaining how to obtain copies and submit comments. Interested parties will have 30 days—until July 31, 2003—to submit comments on the Environmental Appendix and the SIP to SEA. Applicants shall certify that they have met these distribution and newspaper notice requirements. The Board will further ensure broad access to the Environmental Appendix and the SIP by making them available on the Board's Web site at ''*http://www.stb.dot.gov.*''

As discussed above, the information provided by applicants is sufficient to create a presumption that this action does not require formal environmental review. Accordingly, comments challenging the presumption that this matter is categorically excluded from NEPA must demonstrate with specificity why an EA or EIS appears to be warranted in this case.

Based on its consideration of all timely comments and its own independent review of all available environmental information, including the SIP, SEA will then recommend to the Board whether there is a need for formal environmental review in this case. The Board will then determine whether this transaction is categorically excluded from NEPA or, alternatively, whether an EA or an EIS should be prepared. If it appears that an EA or an EIS is required to meet the Board's obligations under NEPA, the procedural schedule set forth in this decision will be adjusted accordingly. Even if no EA or EIS is warranted, the Board intends to include in any decision approving the KCS/TM transaction a condition requiring applicants to comply with their SIP. *See* 49 CFR 1106.4(b)(4).

Discovery. Discovery may begin immediately. The parties are encouraged to resolve all discovery matters expeditiously and amicably.

Electronic Submissions: In General. As already mentioned, in addition to submitting an original and 25 paper copies of each document filed with the Board, parties must submit, on 3.5-inch IBM-compatible floppy diskettes (disks) or on compact discs (CDs), copies of all textual materials, electronic workpapers, data bases, and spreadsheets used to develop quantitative evidence.[32] Textual materials must be in, or compatible with, WordPerfect 10.0. Electronic spreadsheets must be in, or compatible with, Lotus 1–2–3 Release 9 or Microsoft Excel 2002. Each disk or CD should be clearly labeled with the identification acronym and number of

[30] Applicants explain that KCS/TM common control will generate less than a 1% increase in KCSR traffic and less than a 7% increase in Tex Mex traffic. Applicants add that, although there are significant rehabilitation and improvement plans that will take place on Tex Mex property if KCS obtains control authority, such improvements do not require Board approval or environmental review under NEPA. *See* KCS–3 at 41.

[31] Under the regulations of the President's Council on Environmental Quality implementing NEPA and the Board's environmental regulations, actions are separated into three classes that prescribe the level of documentation required in the NEPA process. Actions that may significantly affect the environment generally require the agency to prepare a full Environmental Impact Statement (EIS). 40 CFR 1501.4(a)(1); 49 CFR 1105.4(f), 1105.6(a). Actions that may or may not have a significant environmental impact ordinarily require the agency to prepare a more limited Environmental Assessment (EA). 40 CFR 1501.4(c); 49 CFR 1105.4(d), 1105.6(b). Finally, actions whose environmental effects are ordinarily insignificant may be excluded from NEPA review across the board, without a case-by-case review. Such activities are said to be covered by a categorical exclusion. 40 CFR 1500.4(p), 1501.4(a)(2), 1508.4; 49 CFR 1105.6(c).

[32] Parties unable to comply with the electronic submission requirement can seek a waiver from the Board.

the corresponding paper document, *see* 49 CFR 1180.4(a)(2), and a copy of such disk or CD should be provided to any other party upon request. Also, each disk or CD should be clearly labeled as containing confidential or redacted materials. The data contained on the disks and CDs submitted to the Board will be subject to the protective order granted in Decision No. 1 (served May 13, 2003), and will be for the exclusive use of Board employees reviewing substantive and/or procedural matters in this proceeding. The flexibility provided by computer data will facilitate timely review by the Board and its staff.[33]

Electronic Submissions: Workpapers, Data Bases, and Spreadsheets. In the past, the Board has encountered problems with the ''links'' in spreadsheets functioning properly when the spreadsheets are installed on desktop computers or network servers. To avoid such problems, parties submitting electronic workpapers, data bases, and/or spreadsheets should use naming and linking conventions that will permit the spreadsheets to operate on the Board's computers.[34] Electronic data bases should be compatible with the Microsoft Open Database Connectivity (ODBC) standard.[35] The Board currently uses Microsoft Access 2000, and data bases submitted should be either in this format or another ODBC-compatible format. Otherwise, submitters should explain why it is not possible to submit the data base in this format and seek a determination as to whether it is feasible for the Board to accept the data base in another format.

Excessive Use of Confidentiality Designations. Applicants have included, in their KCS–3 application, copies of the KCS/TM Stock Purchase Agreement and the KCS/TM Voting Trust Agreement. *See* KCS–3 at 160–91 and 192–209, respectively. Initially, however, neither agreement was included in the ''Public Version'' of the KCS–3 application because, initially, each agreement was designated ''Highly Confidential'' in its entirety.[36] Subsequently, applicants filed a ''Public Version'' of the KCS/TM Stock Purchase Agreement, *see* the KCS submission dated May 29, 2003, but they have not filed a ''Public Version'' of the KCS/TM Voting Trust Agreement. As respects the KCS/TM Voting Trust Agreement, the continuing use of the ''Highly Confidential'' designation provided for in the protective order granted in Decision No. 1 appears to be excessive. There may, perhaps, be bits and pieces of the KCS/TM Voting Trust Agreement that should be protected under either the ''Confidential'' designation or the ''Highly Confidential'' designation. It is highly unlikely, however, that this agreement *in its entirety* merits such protection. Applicants will therefore be required to file, no later than June 20, 2003, either a redacted version of the KCS/TM Voting Trust Agreement or a persuasive explanation of why it is that this agreement requires protection *in its entirety* under either the ''Confidential'' designation or the ''Highly Confidential'' designation.[37]

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The KCS/TM application in STB Finance Docket No. 34342 is accepted for consideration.

2. The parties to this proceeding must comply with the Procedural Schedule adopted by the Board in this proceeding as shown in Appendix A.

3. The parties to this proceeding must comply with the procedural requirements described in this decision.

4. Applicants must file, no later than June 20, 2003, either a redacted version of the KCS/TM Voting Trust Agreement or a persuasive explanation of why this agreement requires protection in its entirety under either the ''Confidential'' designation or the ''Highly Confidential'' designation.[38]

5. This decision is effective on June 13, 2003.

Decided: June 9, 2003.

By the Board, Chairman Nober.

Vernon A. Williams,

Secretary.

Appendix A: Procedural Schedule

May 14, 2003 KCS/TM application and petition to establish procedural schedule filed

June 13, 2003 Board notice of acceptance of the KCS/TM application published in the **Federal Register**

June 23, 2003 Environmental Appendix and Safety Integration Plan (SIP) due. Supplementation of the KCS/TM application to reflect the implications of KCS/TFM common control on the KCS/TM transaction and on competition within the U.S. due

June 27, 2003 Notices of intent to participate due

July 1, 2003 Applicants distribute Environmental Appendix and SIP to parties of record and other designated entities, and initiate publication of newspaper notices

July 2003 Public hearing to be scheduled; date and location to be announced

July 31, 2003 Comments on Environmental Appendix and SIP due

August 4, 2003 All comments, protests, requests for conditions, and any other evidence and argument in opposition to the KCS/TM application, including filings of the U.S. Department of Justice (DOJ) and the U.S. Department of Transportation (DOT), due

September 2, 2003 Responses to comments, protests, requests for conditions, and other opposition due. Responses to comments of DOJ and DOT due. Rebuttal in support of KCS/TM application due

October 17, 2003 Date of service of final decision (if no environmental review is required and no oral argument is held)

[FR Doc. 03–14902 Filed 6–12–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 5, 2003.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be

[33] The electronic submission requirements set forth in this decision supersede, for the purposes of this proceeding, the otherwise applicable electronic submission requirements set forth in the Board's regulations.

[34] The Board will not specify a particular naming and linking convention. It is incumbent upon the submitter to use generic naming and linking conventions that will permit the spreadsheets to operate on desktop computers or from a network server. Questions concerning naming and linking matters and/or compatibility with the Board's computers can be addressed to William H. Washburn, Office of Economics, Environmental Analysis, and Administration, at (202) 565–1550.

[35] ODBC is a Windows technology that allows a data base software package, such as Microsoft Access, to import data from a data base created using a different software package. All data bases must be supported with adequate documentation on data attributes, SQL queries, programmed reports, etc.

[36] Although there is one indication in the KCS–3 application that the KCS/TM Stock Purchase Agreement was designated ''Confidential,'' *see* KCS–3 at 34, it seems more likely that this agreement was actually designated ''Highly Confidential,'' *see* KCS–3 at 160.

[37] If applicants choose to file an explanation in lieu of a redacted version, the explanation, if applicants think it appropriate, may be designated either ''Confidential'' or ''Highly Confidential.''

[38] As respects the KCS/TM Stock Purchase Agreement, applicants should also file a redacted version of the items referred to as Annex I and Annex II, *see* KCS–3 at 163 (these items, although noted in the Table of Contents, do not appear to have been included in either the ''Highly Confidential'' version or the ''Public'' version of the KCS/TM Stock Purchase Agreement). If, however, applicants believe that these items should be treated as either ''Confidential'' or ''Highly Confidential,'' applicants may submit these items under seal.

addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before July 14, 2003 to be assured of consideration.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0014.

Form Number: FinCEN 105 (Formerly Customs Form 4790).

Type of Review: Extension.

Title: Report of Financial Transportation of Currency or Monetary Instruments.

Description: FinCEN, and the Department of Homeland Security (DHS) and the DHS Bureaus are required under 31 U.S.C. 5316(a) to collect information regarding the transportation of monetary instruments of more than $10,000 in value into or out of the United States.

Respondents: Business or other for-profit, individuals or households, not-for-profit institutions.

Estimated Number of Respondents/Recordkeeping: 180,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 11 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 33,000 hours.

Clearance Officer: Steve Rudzinski(703) 905–3845, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

BILLING CODE 4810–02–P

FinCEN Form **105**
(Formerly Customs Form 4790)
(Rev. July 2003)
Department of the Treasury
FinCEN

▶ **Please type or print.**

DEPARTMENT OF THE TREASURY
FINANCIAL CRIMES ENFORCEMENT NETWORK

REPORT OF INTERNATIONAL TRANSPORTATION OF CURRENCY OR MONETARY INSTRUMENTS

OMB NO. 1506-0014

▶ To be filed with the Bureau of Customs and Border Protection
▶ For Paperwork Reduction Act Notice and Privacy Act Notice, see back of form.

31 U.S.C. 5316; 31 CFR 103.23 and 103.27

PART I FOR A PERSON DEPARTING OR ENTERING THE UNITED STATES, OR A PERSON SHIPPING, MAILING, OR RECEIVING CURRENCY OR MONETARY INSTRUMENTS. (IF ACTING FOR ANYONE ELSE, ALSO COMPLETE PART II BELOW.)

1. NAME *(Last or family, first, and middle)*	2. IDENTIFICATION NO. *(See instructions)*	3. DATE OF BIRTH *(Mo./Day/Yr.)*

4. PERMANENT ADDRESS IN UNITED STATES OR ABROAD	5. YOUR COUNTRY OR COUNTRIES OF CITIZENSHIP

6. ADDRESS WHILE IN THE UNITED STATES	7. PASSPORT NO. & COUNTRY

8. U.S. VISA DATE *(Mo./Day/Yr.)*	9. PLACE UNITED STATES VISA WAS ISSUED	10. IMMIGRATION ALIEN NO.

11. IF CURRENCY OR MONETARY INSTRUMENT IS ACCOMPANIED BY A PERSON, COMPLETE 11a OR 11b

A. EXPORTED FROM THE UNITED STATES		B. IMPORTED INTO THE UNITED STATES	
Departed From: *(U.S. Port/City in U.S.)*	Arrived At: *(Foreign City/Country)*	Departed From: *(Foreign City/Country)*	Arrived At: *(City in U.S.)*

12. IF CURRENCY OR MONETARY INSTRUMENT WAS MAILED OR OTHERWISE SHIPPED, COMPLETE 12a THROUGH 12f

12a. DATE SHIPPED *(Mo./Day/Yr.)*	12b. DATE RECEIVED *(Mo./Day/Yr.)*	12c. METHOD OF SHIPMENT *(e.g. u.s. Mail, Public Carrier, etc.)*	12d. NAME OF CARRIER

12e. SHIPPED TO *(Name and Address)*

12f. RECEIVED FROM *(Name and Address)*

PART II INFORMATION ABOUT PERSON(S) OR BUSINESS ON WHOSE BEHALF IMPORTATION OR EXPORTATION WAS CONDUCTED

13. NAME *(Last or family, first, and middle or Business Name)*

14. PERMANENT ADDRESS IN UNITED STATES OR ABROAD

15. TYPE OF BUSINESS ACTIVITY, OCCUPATION, OR PROFESSION	15a. IS THE BUSINESS A BANK? ☐ Yes ☐ No

PART III CURRENCY AND MONETARY INSTRUMENT INFORMATION (SEE INSTRUCTIONS ON REVERSE)(To be completed by everyone)

16. TYPE AND AMOUNT OF CURRENCY/MONETARY INSTRUMENTS		17. IF OTHER THAN U.S. CURRENCY IS INVOLVED, PLEASE COMPLETE BLOCKS A AND B.
Currency and Coins ▶	$	A. Currency Name
Other Monetary Instruments *(Specify type, issuing entity and date, and serial or other identifying number.)* ▶	$	
(TOTAL) ▶	$	B. Country

PART IV SIGNATURE OF PERSON COMPLETING THIS REPORT

Under penalties of perjury, I declare that I have examined this report, and to the best of my knowledge and belief it is true, correct and complete.

18. NAME AND TITLE (Print)	19. SIGNATURE	20. DATE OF REPORT *(Mo./Day/Yr.)*

CUSTOMS AND BORDER PROTECTION USE ONLY				COUNT VERIFIED Yes ☐ No ☐	VOLUNTARY REPORT Yes ☐ No ☐
DATE	AIRLINE/FLIGHT/VESSEL	LICENSE PLATE STATE/COUNTRY	LICENSE PLATE NUMBER	INSPECTOR *(Name and Badge Number)*	

FinCEN FORM 105
(Formerly Customs Form 4790)

DRAFT

GENERAL INSTRUCTIONS

This report is required by 31 U.S.C. 5316 and Treasury Department regulations (31 CFR 103).

WHO MUST FILE:

(1) Each person who physically transports, mails, or ships, or causes to be physically transported, mailed, or shipped currency or other monetary instruments in an aggregate amount exceeding $10,000 at one time from the United States to any place outside the United States or into the United States from any place outside the United States, and

(2) Each person who receives in the United States currency or other monetary instruments In an aggregate amount exceeding $10,000 at one time which have been transported, mailed, or shipped to the person from any place outside the United States.

A TRANSFER OF FUNDS THROUGH NORMAL BANKING PROCEDURES, WHICH DOES NOT INVOLVE THE PHYSICAL TRANSPORTATION OF CURRENCY OR MONETARY INSTRUMENTS, IS NOT REQUIRED TO BE REPORTED.

Exceptions: Reports are not required to be filed by:

(1) a Federal Reserve bank,

(2) a bank, a foreign bank, or a broker or dealer in securities in respect to currency or other monetary instruments mailed or shipped through the postal service or by common carrier,

(3) a commercial bank or trust company organized under the laws of any State or of the United States with respect to overland shipments of currency or monetary instruments shipped to or received from an established customer maintaining a deposit relationship with the bank, in amounts which the bank may reasonably conclude do not exceed amounts commensurate with the customary conduct of the business, industry, or profession of the customer concerned,

(4) a person who is not a citizen or resident of the United States in respect to currency or other monetary instruments mailed or shipped from abroad to a bank or broker or dealer in securities through the postal service or by common carrier,

(5) a common carrier of passengers in respect to currency or other monetary instruments in the possession of its passengers,

(6) a common carrier of goods in respect to shipments of currency or monetary instruments not declared to be such by the shipper,

(7) a travelers' check issuer or its agent in respect to the transportation of travelers' checks prior to their delivery to selling agents for eventual sale to the public,

(8) a person with a restrictively endorsed traveler's check that is in the collection and reconciliation process after the traveler's check has been negotiated, nor by

(9) a person engaged as a business in the transportation of currency, monetary instruments and other commercial papers with respect to the transportation of currency or other monetary instruments overland between established offices of banks or brokers or dealers in securities and foreign persons.

WHEN AND WHERE TO FILE:

A. Recipients—Each person who receives currency or other monetary instruments in the United States shall file FinCEN Form 105, within 15 days after receipt of the currency or monetary instruments, with the Customs officer in charge at any port of entry or departure or by mail with the **Commissioner of Customs, Attention: Currency Transportation Reports, Washington DC 20229.**

B. Shippers or Mailers—If the currency or other monetary instrument does not accompany the person entering or departing the United States, FinCEN Form 105 may be filed by mail on or before the date of entry, departure, mailing, or shipping with the **Commissioner of Customs, Attention: Currency Transportation Reports, Washington DC 20229.**

C. Travelers—Travelers carrying currency or other monetary instruments with them shall file FinCEN Form 105 at the time of entry into the United States or at the time of departure from the United States with the Customs officer in charge at any Customs port of entry or departure.

An additional report of a particular transportation, mailing, or shipping of currency or the monetary instruments is not required if a complete and truthful report has already been filed. However, no person otherwise required to file a report shall be excused from liability for failure to do so if, in fact, a complete and truthful report has not been filed. Forms may be obtained from any Bureau of Customs and Border Protection office.

PENALTIES: Civil and criminal penalties, including under certain circumstances a fine of not more than $500,000 and Imprisonment of not more than ten years, are provided for failure to file a report, filing a report containing a material omission or misstatement, or filing a false or fraudulent report. In addition, the currency or monetary instrument may be subject to seizure and forfeiture. See 31 U.S.C.5321 and 31 CFR 103.57; 31 U.S.C. 5322 and 31 CFR 103.59; 31 U.S.C. 5317 and 31 CFR 103.58, and U.S.C. 5332.

DEFINITIONS:

Bank—Each agent, agency, branch or office within the United States of any person doing business in one or more of the capacities listed: (1) a commercial bank or trust company organized under the laws of any State or of the United States; (2) a private bank; (3) a savings association, savings and loan association, and building and loan association organized under the laws of any State or of the United States; (4) an insured institution as defined in section 401 of the National Housing Act; (5) a savings bank, industrial bank or other thrift institution; (6) a credit union organized under the laws of any State or of the United States; (7) any other organization chartered under the banking laws of any State and subject to the supervision of the bank supervisory authorities of a State other than a money service business; (8) a bank organized under foreign law; and (9) any national banking association or corporation acting under the provisions of section 25A of the Federal Reserve Act (12 U.S.C. Sections 611-632).

Foreign Bank—A bank organized under foreign law, or an agency, branch or office located outside the United States of a bank. The term does not include an agent, agency, branch or office within the United States of a bank organized under foreign law.

Broker or Dealer in Securities—A broker or dealer in securities, registered or required to be registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934.

Identification Number—Individuals must enter their social security number, if any. However, aliens who do not have a social security number should enter passport or alien registration number. All others should enter their employer identification number.

Monetary Instruments— (1) Coin or currency of the United States or of any other country, (2) traveler's checks in any form, (3) negotiable instruments (including checks, promissory notes, and money orders) in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery, (4) incomplete instruments (including checks, promissory notes, and money orders) that are signed but on which the name of the payee has been omitted, and (5) securities or stock in bearer form or otherwise in such form that title thereto passes upon delivery. Monetary instruments do not include (i) checks or money orders made payable to the order of a named person which have not been endorsed or which bear restrictive endorsements, (ii) warehouse receipts, or (iii) bills of lading.

Person—An individual, a corporation, a partnership, a trust or estate, a joint stock company, an association, a syndicate, joint venture or other unincorporated organization or group, an Indian Tribe (as that term is defined in the Indian Gaming Regulatory Act), and all entities cognizable as legal personalities.

SPECIAL INSTRUCTIONS:

You should complete each line that applies to you. **PART II.** -Block 13; provide the complete name of the shipper or recipient on whose behalf the exportation or importation was conducted. **PART III.** — Specify type of instrument, issuing entity, and date, serial or other identifying number, and payee (if any). **PART IV.** — Block 22A and 22B, enter the exact date you shipped or received currency or monetary instrument(s). Block 21, if currency or monetary instruments of more than one country is involved, attach a list showing each type, country or origin and amount.

DRAFT

PRIVACY ACT AND PAPERWORK REDUCTION ACT NOTICE:

Pursuant to the requirements of Public law 93-579 (Privacy Act of 1974), notice is hereby given that the authority to collect information on Form 4790 in accordance with 5 U.S.C. 552a(e)(3) is Public law 91-508; 31 U.S.C. 5316; 5 U.S.C. 301; Reorganization Plan No.1 of 1950; Treasury Department Order No. 165, revised, as amended; 31 CFR 103; and 44 U.S.C. 3501.

The principal purpose for collecting the information is to assure maintenance of reports or records where such reports or records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings. The information collected may be provided to those officers and employees of the Bureau of Customs and Border Protection and any other constituent unit of the Department of the Treasury who have a need for the records in the performance of their duties. The records may be referred to any other department or agency of the Federal Government upon the request of the head of such department or agency. The information collected may also be provided to appropriate state, local, and foreign criminal law enforcement and regulatory personnel in the performance of their official duties.

Disclosure of this information is mandatory pursuant to 31 U.S.C. 5316 and 31 CFR Part 103. Failure to provide all or any part of the requested information may subject the currency or monetary instruments to seizure and forfeiture, as well as subject the individual to civil and criminal liabilities.

Disclosure of the social security number is mandatory. The authority to collect this number is 31 U.S.C. 5316(b) and 31 CFR 103.27(d). The social security number will be used as a means to identify the individual who files the record.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The collection of this information is mandatory pursuant to 31 U.S.C. 5316, of Title II of the Bank Secrecy Act, which is administered by Treasury's Financial Crimes Enforcement Network (FINCEN).

Statement required by 5 CFR 1320.8(b)(3)(iii): The estimated average burden associated with this collection of information is 11 minutes per respondent or record keeper depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Department of the Treasury, Financial Crimes Enforcement Network, P.O. Box 39 Vienna, Virginia 22183. **DO NOT send completed forms to this office—See When and Where To File above.**

FinCEN FORM 105
(Formerly Customs Form 4790)

[FR Doc. 03–14903 Filed 6–12–03; 8:45 am]
BILLING CODE 4810–02–C

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 5, 2003.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before July 14, 2003 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0745.

Regulation Project Number: LR–27–83 Temporary and LR–54–85 Temporary.

Type of Review: Extension.

Title: Floor Stocks Credits or Refunds and Consumer Credits or Refunds with Respect to Certain Tax-Repealed Articles; Excise Tax on Heavy Trucks (LR–27–83); and Excise Tax on Heavy Trucks, Truck Trailers and Semitrailers, and Tractors; Reporting and Recordkeeping Requirements (LR–54–85).

Description: LR–27–83 requires sellers of trucks, trailers and semitrailers, and tractors to maintain records of the gross vehicle weights of articles sold to verify taxability. LR–54–85 requires that if the sale is to be treated as exempt, the seller and the purchaser must be registered and the purchaser must give the seller a resale certificate.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 4,100.

Estimated Burden Hours Per Recordkeeper: 1 hour, 1 minute.

Estimated Total Recordkeeping Burden: 4,140 hours.

OMB Number: 1545–1418.

Regulation Project Number: REG–119227–97 Final and Temporary.

Type of Review: Extension.

Title: Kerosene Tax; Aviation Fuel Tax; Taxable Fuel Measurement and Reporting; Tax on Heavy Trucks and Trailers; Highway Vehicle Use Tax.

Description: The regulation finalizes proposed and temporary regulations relating to the tax on kerosene, the refund for certain aviation fuel producers, and the registration rules for certain truck dealers.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 346,080.

Estimated Burden Hours Per Respondent/Recordkeeper: 17 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 97,583 hours.

OMB Number: 1545–1438.

Regulation Project Number: CO–8–91 Final.

Type of Review: Extension.

Title: Distributions of Stock and Stock Rights.

Description: The requested information is required to notify the Service that a holder of preferred stock callable at a premium by the issuer has made a determination regarding the likelihood of exercise of the right to call that is different from the issuer's determination.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 2,000.

Estimated Burden Hours Per Respondent: 10 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 333 hours.

Clearance Officer: Glenn Kirkland, (202) 622–3428, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 03–14904 Filed 6–12–03; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1120–FSC and Schedule P (Form 1120–FSC)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1120–FSC, U.S. Income Tax Return of a Foreign Sales Corporation, and Schedule P (Form 1120–FSC), Transfer Price or Commission.

DATES: Written comments should be received on or before August 12, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage at Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3945, or through the Internet at *CAROL.A.SAVAGE@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Form 1120–FSC, U.S. Income Tax Return of a Foreign Sales Corporation, and Schedule P (Form 1120–FSC), Transfer Price or Commission.

OMB Number: 1545–0935.

Form Number: 1120–FSC and Schedule P (Form 1120–FSC).

Abstract: Form 1120–FSC is filed by foreign corporations that have elected to be FSCs or small FSCs. The FSC uses Form 1120–FSC to report income and expenses and to figure its tax liability. IRS uses Form 1120–FSC and Schedule P (Form 1120–FSC) to determine whether the FSC has correctly reported its income and expenses and figured its tax liability correctly.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 217 hours, 59 minutes.

Estimated Total Annual Burden Hours: 1,089,900.

The following paragraph applies to all of the collections of information covered by this notice:

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

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

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 6, 2003.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–15025 Filed 6–12–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5500–EZ

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5500–EZ, Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan.

DATES: Written comments should be received on or before August 12, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage at Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3945, or through the Internet at *CAROL.A.SAVAGE@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan.

OMB Number: 1545–0956.

Form Number: 5500–EZ.

Abstract: Form 5500–EZ is an annual return filed by a one-participant or one-participant and spouse pension plan. The IRS uses this data to determine if the plan appears to be operating properly as required under the Internal Revenue Code or whether the plan should be audited.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and farms.

Estimated Number of Respondents: 250,000.

Estimated Time Per Respondent: 26 hours, 38 minutes.

Estimated Total Annual Burden Hours: 6,660,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 6, 2003.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–15026 Filed 6–12–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Special Form of Request For Payment of United States Savings and Retirement Securities Where Use of a Detached Request is Authorized.

DATES: Written comments should be received on or before August 13, 2003, to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328, or *Vicki.Thorpe@bpd.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Special Form of Request for Payment of United States Savings and Retirement Securities Where Use of A Detached Request is Authorized.

OMB Number: 1535–0004.

Form Number: PD F 1522.

Abstract: The information is requested to establish ownership and request for payment of United States Savings Bonds/Retirement Securities.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 56,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 14,000.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 9, 2003.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 03–14913 Filed 6–12–03; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Exchange Application For U.S. Savings Bonds of Series HH.

DATES: Written comments should be received on or before August 13, 2003 to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328, or *Vicki.Thorpe@bpd.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Exchange Application For U.S. Savings Bonds of Series HH.

OMB Number: 1535–0005.

Form Number: PD F 3253.

Abstract: The information is used to support a request to exchange Series EE/E bonds or notes for Series HH Savings Bonds.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 60,000.

Estimated Time Per Respondent: 40 minutes.

Estimated Total Annual Burden Hours: 39,960.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 9, 2003.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 03–14914 Filed 6–12–03; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Certificate of Entitlement United States Savings Bonds and/or Checks After Administration of Decedent's Estate.

DATES: Written comments should be received on or before August 13, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328, or *Vicki.Thorpe@bpd.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Certificate of Entitlement United States Savings Bonds and/or Checks After Administration of Decedent's Estate.

OMB Number: 1535–0006.

Form Number: PD F 2458.

Abstract: The information is requested to establish entitlement of United States Savings Bonds and Checks After Administration of a Decedent's Estate.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 7,000.

Estimated Time Per Respondent: 8 minutes.

Estimated Total Annual Burden Hours: 938.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of

public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 9, 2003.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 03–14915 Filed 6–12–03; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Request for Reissue of United States Savings Bonds To Remove Name of One or More Living Registrants.

DATES: Written comments should be received on or before August 13, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328, or *Vicki.Thorpe@bpd.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Request For Reissue of United States Savings Bonds To Remove Name Of One Or More Living Registrants.

OMB Number: 1535–0008.

Form Number: PD F 1938.

Abstract: The information is requested to establish ownership and request reissue of United States Savings Bonds.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 87,000.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 14,529.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 9, 2003.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 03–14916 Filed 6–12–03; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Claim For Lost, Stolen, or Destroyed United States Registered Securities.

DATES: Written comments should be received on or before August 13, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328, or *Vicki.Thorpe@bpd.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Claim For Lost, Stolen, or Destroyed United States Registered Securities.

OMB Number: 1535–0014.

Form Number: PD F 1025.

Abstract: The information is requested to establish ownership and support a request for relief because of the loss, theft, or destruction of United States Registered Securities.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or businesses.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 55 minutes.

Estimated Total Annual Burden Hours: 460.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital

or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 9, 2003.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 03–14917 Filed 6–12–03; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Report/Application For Relief on Account of Loss, Theft, or Destruction of United States Bearer Securities (Organizations).

DATES: Written comments should be received on or before August 13, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328, or *Vicki.Thorpe@bpd.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Report/Application For Relief on Account of Loss, Theft, or Destruction of United States Bearer Securities (Organizations).

OMB Number: 1535–0015.

Form Number: PD F 1022.

Abstract: The information is requested to establish ownership and support a request for relief because of the loss, theft, or destruction of United States Bearer Securities.

Current Actions: None.

Type of Review: Extension.

Affected Public: Organizations.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 55 minutes.

Estimated Total Annual Burden Hours: 92.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 9, 2003.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 03–14918 Filed 6–12–03; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Report/Application For Relief on Account of Loss, Theft, or Destruction of United States Bearer Securities (Individuals).

DATES: Written comments should be received on or before August 13, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328, or *Vicki.Thorpe@bpd.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Report/Application For Relief on Account of Loss, Theft, or Destruction of United States Bearer Securities (Individuals).

OMB Number: 1535–0016.

Form Number: PD F 1022–1.

Abstract: The information is requested to establish ownership and support a request for relief because of the loss, theft, or destruction of United States Bearer Securities owned by individuals.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 55 minutes.

Estimated Total Annual Burden Hours: 92.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 9, 2003.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 03–14919 Filed 6–12–03; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Affidavit of Forgery for United States Savings Bonds.

DATES: Written comments should be received on or before August 13, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328, or *Vicki.Thorpe@bpd.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Affidavit of Forgery for United States Savings Bonds.

OMB Number: 1535–0067.

Form Number: PD F 0974.

Abstract: The information is requested to establish whether the registered owner signed the request for payment or if the signature was a forgery.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 3,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 750.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 9, 2003.

Vicki S. Thorpe,

Manager, Graphics, Printing, and Records Branch.

[FR Doc. 03–14920 Filed 6–12–03; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Claim For Relief on Account of the Nonreceipt of United States Savings Bonds.

DATES: Written comments should be received on or before August 13, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328, or *Vicki.Thorpe@bpd.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Claim For Relief on Account of the Nonreceipt of United States Savings Bonds.

OMB Number: 1535–0098.

Form Number: PD F 3062–4.

Abstract: The information is used to support a request for substitute savings bonds in lieu of savings bonds not received.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 30,000.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 5,010.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 9, 2003.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 03–14921 Filed 6–12–03; 8:45 am]

BILLING CODE 4810–39–P

Corrections

Federal Register
Vol. 68, No. 114
Friday, June 13, 2003

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 800

RIN 0580-AA81

Fees for Official Inspection and Official Weighing Services

Correction

In rule document 03–13679 beginning on page 32623 in the issue of Monday, June 2, 2003, make the following correction:

§800.71 [Corrected]

On page 32626, in §800.71, Table 2 is corrected in part to read as set forth below.

* * * * *

TABLE 2.—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1] [2]

(2) Appeal inspection and review of weighing service [4]	
(i) Board Appeals and Appeals (grade and factor)	82.00
(a) Factor only (per factor—max 2 factors)	43.00
(b) Sampling service for Appeals additional (hourly rates from Table 1)	

* * * * *

[FR Doc. C3–13679 Filed 6–12–03; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Friday,
June 13, 2003

Part II

Federal Retirement Thrift Investment Board

5 CFR Part 1600 et al.
Thrift Savings Plan—Employee Investments, Participant's Choices, and Miscellaneous Amendments; Interim Rule

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Parts 1600, 1601, 1603, 1604, 1605, 1606, 1640, 1645, 1650, 1651, 1653, 1655, 1690

Employee Elections To Contribute to the Thrift Savings Plan, Participants' Choices of Investment Funds, Vesting, Uniformed Services Accounts, Correction of Administrative Errors, Lost Earnings Attributable to Employing Agency Errors, Participant Statements, Calculation of Share Prices, Methods of Withdrawing Funds From the Thrift Savings Plan, Death Benefits, Domestic Relations Orders Affecting Thrift Savings Plan Accounts, Loans, Miscellaneous

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Interim rule, with request for comments.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is amending the Board's regulations to reflect the processes and terminology of the Thrift Savings Plan's (TSP) new record keeping system, to codify several policy decisions related to the implementation of this new system, to permit the making of catch-up contributions by TSP participants who are age 50 and over, and to add new methods of post-employment withdrawals. This rule also will allow participants more options and greater flexibility with which to manage their TSP accounts.

EFFECTIVE DATE: This interim rule is effective June 13, 2003.

ADDRESSES: Comments may be sent to: Elizabeth S. Woodruff, General Counsel, Federal Retirement Thrift Investment Board, 1250 H Street, NW., Washington, DC 20005. The Board's FAX is (202) 942–1676.

FOR FURTHER INFORMATION CONTACT: Patrick J. Forrest on (202) 942–1659, or Merritt A. Willing on (202) 942–1666.

SUPPLEMENTARY INFORMATION: The Board administers the TSP, which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514. The TSP provisions of FERSA have been codified, as amended, largely at 5 U.S.C. 8351 and 8401–8479. The TSP is a tax-deferred retirement savings plan for Federal civilian employees and members of the uniformed services, which is similar to cash or deferred arrangements established under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)). Sums in a TSP participant's account are held in trust for the participant.

Congress amended FERSA in 1996 by enacting the Thrift Savings Plan Act of 1996, Public Law 104–208, 110 Stat. 3009, which permitted the Executive Director to offer, among other things, new withdrawal options to TSP participants. In order to accommodate these new withdrawal options and to make a number of benefits arising from recent technological advances available to TSP participants, the Board redesigned its record keeping system.

Thus, the Executive Director is amending the TSP regulations that will be affected by the implementation of the new record keeping system. As explained below, the final rule also adopts uniform definitions, eliminates obsolete regulations, and reorganizes various sections of the regulations to make them more easily understood.

The Board published these regulations in proposed form in the **Federal Register** (67 FR 42856) on June 25, 2002. The Board received no comment on the proposed rule.

After the Board published the proposed regulations, Congress amended FERSA to permit participants who are age 50 and older to make supplemental contributions to the TSP called ''catch-up'' contributions. *See* Federal Thrift Savings Plan Catch-up Contributions Act, Public Law 107–304, 116 Stat. 2363 (November 27, 2002). The Board will offer qualified participants the opportunity to make these catch-up contributions in the second half of 2003. Therefore, on April 4, 2003, the Board published a notice of proposed rulemaking in the **Federal Register** (68 FR 16449), proposing to amend the Board's regulations to permit these contributions. The April 4 notice also proposed additional changes to the Board's regulations to accommodate the operation of the new record keeping system. The Board received no comment on this notice.

Accordingly, the Board is adopting the June 25, 2002, proposed rule as an interim rule with a few substantive revisions, which are described below.

Catch-Up Contributions

The Federal Thrift Savings Plan Catch-up Contributions Act amended 5 U.S.C. 8351(b), 8432(a), and 8440f(a) to authorized TSP participants who are age 50 or older to make additional TSP contributions. These additional contributions exceed the amount the participant could otherwise make by law and are known as ''catch-up contributions.'' Congress'' initial reason for permitting these contributions was to allow participants to catch up for years when they were not employed, took time away from work to raise a family, or were otherwise unable to contribute their retirement plans. Congress later decided to allow anyone age 50 or over to make these contributions, but, nevertheless, retained the name ''catch-up.'' Thus, ''catch-up'' contributions are supplemental contributions from taxable basic pay made by TSP participants who are age 50 and over. These contributions exceed the maximum that a participant could make by law. This interim rule adds a new paragraph (b) to § 1600.22 to explain how eligible participants can make these catch-up contributions.

Specifically, a participant is eligible to make catch-up contributions as long as he or she is: (1) At least 50 years of age during the calendar year (even if the participant's birthday is December 31, of that year); and (2) currently contributing the maximum amount allowed according to the TSP percentage of basic pay limitations, or the Internal Revenue Code elective deferral limit.

In addition, under 5 U.S.C. 8351(b), 8432(a) and 8440f(a), TSP catch-up contributions must be made from basic pay. Therefore, members of the uniformed services may not make catch-up contributions from special, bonus, or incentive pay. In addition, TSP catch-up contributions must comply with section 414(v) of the Internal Revenue Code (26 U.S.C. 414(v)), which requires catch-up contributions to be elective deferrals. Because elective deferrals are, by definition, made from taxable pay, the law also does not allow members of the uniformed services to make catch-up contributions from tax-exempt basic pay (for example, from the basic pay that is fully exempt due to service in a combat zone). Finally, catch-up contributions are not eligible for agency matching contributions. *See* 5 U.S.C. 8432(c)(2); 37 U.S.C. 211(d).

Breakage

The TSP will credit late contributions, and in some cases makeup contributions, with the investment gains and losses they would have earned had the contributions been timely made. The loss incurred or the gain realized on late or makeup contributions is called ''breakage.'' The proposed rule explains how breakage will be computed after implementation of the new record keeping system, with one exception.

Specifically, the proposed rule states that late contributions (and some makeup contributions) will be credited with breakage based on the contribution allocation for the participant's account at the time the contributions should

have been made. However, when the new record keeping system is implemented, it will contain only three and one-half years of converted contribution allocation history and contribution records for each participant. Therefore, if the TSP corrects an error that occurred more than three years before implementation of the new system, the TSP will compute breakage based on a calculated rate of investment return derived by the record keeping system, instead of basing breakage on the participant's contribution allocation as of the time of the error. The calculated rate of return will be either the Government Securities Investment Fund (G Fund) rate, or the average of the rates of return for all of the TSP investment funds, whichever rate is greater. The interim rule codifies this procedure in § 1605.2 and § 1605.13.

In addition, because the TSP will not have a record of the participant's contribution history before January 1, 2000, it will be unable to determine the actual present value of an erroneous contribution made to a participant's account before January 1, 2000. Therefore, as explained in interim § 1605.12 and § 1605.14, the TSP will not process an agency-submitted negative adjustment to remove erroneous contributions from a participant's account if the contributions were made before January 1, 2000.

Agency Submission of Contribution and Loan Payments

Employing agencies are required to submit contributions and loan payments to the TSP record keeper within 30 days after the pay date associated with their submissions. Contributions and loan payments submitted beyond the 30-day period are subject to lost earnings. Proposed § 1605.15(c) contemplated reducing that time period to 2 days. However, § 1605.15(c) of the interim rule retains the 30-day period; therefore, contributions and loan payments submitted more than 30 days after the pay date associated with the agency's submission will be subject to breakage.

Hardship In-Service Withdrawals

Under 5 U.S.C. 8433(h)(1)(B), a participant who is still employed by the Federal Government can obtain a financial hardship withdrawal from the TSP to meet certain specified financial obligations. Hardship withdrawals are governed by 5 CFR part 1650. The regulations in effect under the old record keeping system required a participant to document income and expenses on a hardship withdrawal application, which the TSP would use to calculate how much the participant could withdraw from his or her account. This procedure was retained by proposed §§ 1650.32 and 1650.42. However, interim §§ 1650.32 and 1650.42 require the participant to perform the calculation with the use of a worksheet provided with the hardship withdrawal application, and to request a withdrawal amount based on that calculation.

Death Benefits

If the TSP learns that a separated participant died after making a withdrawal request, the TSP will not process the withdrawal. Instead, the TSP will pay the funds as a death benefit according to the order of precedence found at 5 U.S.C. 8424(d). If the participant chose to withdraw his or her account as a joint life annuity or an annuity with a refund or 10-year option, the TSP will pay the account to the joint annuitant or to the beneficiary or beneficiaries of the annuity as designated by the participant.

The TSP considered a change to this process in the proposed rule. Specifically, proposed § 1651.2(b) and (c) stated that the TSP would give effect to a participant's withdrawal request in limited circumstances. The Board has decided to retain the current policy because of issues regarding the negotiability of a payment made to a deceased participant.

TSP Loans

This interim rule codifies two new loan processes not discussed in the proposed rule. Under the old record keeping system, if a participant missed TSP loan payments, but resumed the payments within 90 days of the first missed payment, the missed payments would be added to the end of the participant's loan term. If the participant resumed making loan payments more than 90 days after the first missed payment, the participant was required to reamortize the loan.

Proposed § 1655.14(e) stated that a participant who missed loan payments would be required to make up that missed payment by the end of the next calendar quarter, or the TSP would declare the loan a taxable distribution. Proposed § 1655.14(f) also provided that interest would not accrue on a missed loan payment, as long as the participant made up the payment within a specified time.

Section 1655.14(e) of the interim rule instead requires a participant to become current in his or her loan by making up all missed payments by the end of the next calendar quarter (even those payments missed in the second calendar quarter). In addition, interim § 1655.14(f) provides that interest will accrue on all missed loan payments from the time they were due.

Funds Returned to the TSP as Undeliverable

This TSP is adopting new procedures for the processing of funds that are disbursed from the TSP but returned as undeliverable. The new procedures are codified by the interim rule at § 1650.5 (regarding withdrawals), § 1651.14(g) (court ordered payments), § 1653.5(k) (death benefits), and § 1655.13(e) and § 1655.14(b) (loans). If a withdrawal, a refunded loan overpayment, court-ordered payment, or death benefit payment is returned to the TSP as undeliverable, the TSP will attempt to locate the participant or payee in order to reissue the funds. If the TSP cannot locate the participant or payee within 60 days, the funds will be forfeited to the TSP. The participant or payee may reclaim the funds, but investment earnings will not accrue on them after they are first disbursed from the TSP. In the case of a returned loan disbursement, the TSP will use the returned proceeds to repay the participant's loan if the TSP is unable to locate the participant and reissue the loan.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only employees and former employees of the Federal Government.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, Public Law 104–4, section 201, 109 Stat. 48, 64, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by state, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under section 202, 109 Stat. 48, 64–65, is not required.

Submission to Congress and the General Accounting Office

Pursuant to 5 U.S.C. 801(a)(1)(A), the Board submitted a report containing these rules and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule in today's **Federal Register**. These rules are not major rules as defined at 5 U.S.C. 804(2).

Waiver of 30-Day Delay of Effective Date

Pursuant to 5 U.S.C. 553(d)(3), I find good cause for making this interim rule effective in less than 30 days. This rule explains the processes of the new TSP record keeping system and codifies policy decisions made in connection with its development. It was impossible to establish in advance an effective date for this rule because it was impossible to predict the implementation date of the new system until it was imminent. However, because the new system replaced the old system, the Board's regulations must be amended to accurately describe the TSP processes to participants, beneficiaries, agencies and the uniformed services. Therefore, the Board has decided to make this rule effective immediately, on an interim basis, and to request comments from interested parties.

List of Subjects

5 CFR Parts 1600, 1601, 1603, 1606, 1645, 1650, 1651, 1653, 1690

Employee benefit plans, Government employees, Pensions, Retirement.

5 CFR Parts 1604, 1655

Employee benefit plans, Government employees, Military personnel, Pensions, Retirement.

5 CFR Part 1605

Administrative practice and procedure, Employee benefit plans, Government employees, Pensions, Retirement.

5 CFR Part 1640

Employee benefit plans, Government employees, Pensions, Reporting and recordkeeping requirements, Retirement.

Gary A. Amelio,

Executive Director, Federal Retirement Thrift Investment Board.

■ For the reasons set out in the preamble, the Executive Director of the Federal Retirement Thrift Investment Board amends 5 CFR chapter VI as follows:

PART 1600—EMPLOYEE ELECTIONS TO CONTRIBUTE TO THE THRIFT SAVINGS PLAN

■ 1. The authority citation for part 1600 is revised to read as follows:

Authority: 5 U.S.C. 8351, 8432(a), 8432(b)(1)(A), 8432(j), 8474(b)(5) and (c)(1).

■ 2. Section 1600.1 is revised to read as follows:

§ 1600.1 Definitions.

Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

■ 3. Section 1600.11 is amended by revising paragraph (a), introductory text, to read as follows:

§ 1600.11 Types of elections.

(a) *Contribution elections.* A contribution election must be made pursuant to § 1600.14 and includes the following types of elections:

* * * * *

■ 4. Section 1600.12 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1600.12 Period for making contribution elections.

(a) *Participation upon initial appointment or reappointment.* An employee appointed, or reappointed following a separation from Government service, to a position covered by FERS or CSRS may make a TSP contribution election within 60 days after the effective date of the appointment.

(b) *Open season elections.* Any employee may make a contribution election during an open season. Each year, an open season will begin on April 15 and will end on June 30; a second open season will begin on October 15 and end on December 31. If the last day of an open season falls on a Saturday, Sunday, or legal holiday, the open season will be extended through the end of the next business day.

* * * * *

■ 5. Section 1600.13 is amended by revising paragraph (a) to read as follows:

§ 1600.13 Effective dates of contribution elections.

(a) *Participation upon initial appointment or reappointment.* TSP contribution elections made pursuant to § 1600.12(a) will become effective no later than the first full pay period after the election is received by the employing agency or uniformed service.

* * * * *

■ 6. Section 1600.14 is amended by revising paragraphs (a), (b) introductory text, and (b)(1) to read as follows:

§ 1600.14 Method of election.

(a) A participant must submit a contribution election to his or her employing agency. Employees may use either the paper TSP election form (*i.e.*, Form TSP–1, TSP–1–C, TSP–U–1, or TSP–U–1–C) or, if available from their employing agency, electronic media to make an election. If an electronic medium is used, all relevant elements contained on the paper form must be included in the electronic medium.

(b) A contribution election must:

(1) Be completed in accordance with the instructions on the form, if a paper form is used;

* * * * *

■ 7. Section 1600.22 is revised to read as follows:

§ 1600.22 Maximum contributions.

(a) *Regular employee contributions.* The amount a participant can contribute to the TSP under this paragraph is subject to the Internal Revenue Code (I.R.C.) limitations described in paragraphs (a)(3) and (4) of this section.

(1) *FERS percentage limit.* The maximum employee contribution from basic pay for a FERS participant for December 2002 through November 2003 is 13 percent per pay period. The maximum contribution will increase one percentage point in December of each year until December 2005, after which the percentage of basic pay limit will not apply and the maximum contribution will be limited only as provided in paragraphs (a)(2) and (3) of this section.

(2) *CSRS and uniformed services percentage limit.* The maximum employee contribution from basic pay for a CSRS or uniformed services participant for December 2002 through November 2003 is 8 percent per pay period. The maximum contribution will increase one percent in December of each year until December 2005, after which the percentage of basic pay limit will not apply and the maximum contribution will be limited only as provided in paragraphs (b) and (c) of this section.

(3) *I.R.C. limit on elective deferrals.* Section 402(g) of the I.R.C. (26 U.S.C. 402(g)) places a dollar limit on the amount an employee may save on a tax-deferred basis through regular contributions to the TSP. The TSP will not accept any regular employee contributions that exceed this limit. If a participant contributes to the TSP and another plan, and the combined contributions exceed the section 402(g) limit, he or she may request a refund of employee contributions from the TSP to conform to the limit.

(4) *I.R.C. limit on contributions to qualified plans.* Section 415(c) of the I.R.C. (26 U.S.C. 415(c)) also places a limit on the amount an employee may save on a tax-deferred basis through the TSP. Regular employee contributions and employer contributions made to the TSP will be restricted to the I.R.C. section 415(c) limit. No regular employee contributions may be made to the TSP for any year to the extent that the sum of the regular employee contributions and the employer contributions for the year will exceed the section 415(c) limit.

(b) *Catch-up contributions.* (1) A participant may make tax-deferred catch-up contributions from basic pay at any time during the calendar year if he or she:

(i) Is at least age 50 by the end of the calendar year; and

(ii) Is making regular TSP contributions at either the maximum TSP contribution percentage or a dollar amount that will result in reaching the Internal Revenue Code elective deferral limit by the end of the year.

(2) Elections to make catch-up contributions shall be separate from the participant's regular contribution election.

(3) A participant who has both a civilian and a uniformed services account can make catch-up contributions to both accounts, as long as he or she does not exceed the limit for the year.

(4) Catch-up contributions are not eligible for matching contributions.

■ 8. Section 1600.32 is amended by revising paragraph (b)(3) to read as follows:

§ 1600.32 Methods for transferring eligible rollover distribution to TSP.

* * * * *

(b) * * *

(3) The participant must submit the completed Form TSP–60 or TSP–U–60, together with a certified check, cashier's check, cashier's draft, money order, treasurer's check from a credit union, or personal check, made out to the ''Thrift Savings Plan,'' for the entire amount of the rollover. A participant may roll over the full amount of the distribution by making up, from his or her own funds, the amount that was withheld from the distribution for the payment of Federal taxes.

* * * * *

PART 1601—PARTICIPANTS' CHOICES OF INVESTMENT FUNDS

■ 9. The authority citation for part 1601 continues to read as follows:

Authority: 5 U.S.C. 8351, 8438, 8474(b)(5) and (c)(1).

Subpart A—General

■ 10. Section 1601.1 is revised to read as follows:

§ 1601.1 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) As used in this part:

Acknowledgment of risk means an acknowledgment that any investment in the F Fund, C Fund, S Fund, or I Fund is made at the participant's risk, that the participant is not protected by the United States Government or the Board against any loss on the investment, and that neither the United States Government nor the Board guarantees any return on the investment.

■ 11. Subparts B and C are revised to read as follows:

Subpart B—Investing Future Deposits

Sec.
1601.11 Applicability
1601.12 Investing future deposits in the TSP investment funds.
1601.13 Elections.

Subpart C—Redistributing Participants' Existing Account Balances (Interfund Transfers)

1601.21 Applicability.
1601.22 Methods of requesting an interfund transfer.

Subpart B—Investing Future Deposits

§ 1601.11 Applicability.

This subpart applies only to the investment of future deposits to the TSP's investment funds, including contributions, loan payments, and transfers or rollovers from traditional IRAs and eligible employer plans; it does not apply to redistributing participants' existing account balances among the investment funds, which is covered in subpart C of this part.

§ 1601.12 Investing future deposits in the TSP investment funds.

(a) *Allocation.* Future deposits in the TSP, including contributions, loan payments, and transfers or rollovers from traditional IRAs and eligible employer plans, will be allocated among the investment funds based on the most recent contribution allocation on file for the participant.

(b) *Investment fund availability.* All participants may elect to invest all or any portion of their deposits in any of the TSP's five investment funds.

§ 1601.13 Elections.

(a) *Contribution allocation.* Each participant may indicate his or her choice of investment funds for the allocation of future deposits by using the TSP Web site or the ThriftLine, or by completing Form TSP–50 (for civilians) or Form TSP–U–50 (for uniformed services), Investment Allocation. The following rules apply to contribution allocations:

(1) Contribution allocations must be made in one percent increments. The sum of the percentages elected for all of the investment funds must equal 100 percent;

(2) The percentage elected by a participant for investment of future deposits in an investment fund will be applied to all sources of contributions and transfers (or rollovers) from traditional IRAs and eligible employer plans. A participant may not make different percentage elections for different sources of contributions;

(3) A participant who elects for the first time to invest in the F Fund, C Fund, S Fund, or I Fund must execute an acknowledgment of risk in accordance with § 1601.33. In addition, a participant who, before June 2003, has only acknowledged the risk of investing in the F Fund or C Fund must execute an acknowledgment of risk in accordance with § 1601.33 before making any new election to invest in the F Fund, C Fund, S Fund, or I Fund;

(4) All deposits made on behalf of a participant who does not have a contribution allocation in effect will be invested in the G Fund; and

(5) Once a contribution allocation becomes effective, it remains in effect until it is superseded by a subsequent contribution allocation. If a separated participant is rehired and had not withdrawn his or her entire TSP account, the participant's last contribution allocation before separation from service will be effective until a new allocation is made.

(b) *Effect of rejection of contribution allocation.* If a contribution allocation on a Form TSP–50 or Form TSP–U–50 is found to be ineffective pursuant to § 1601.34, the attempted allocation will have no effect. The TSP will provide the participant with a written statement of the reason the transaction was rejected.

(c) *Contribution elections.* A participant may designate the amount of employee contributions he or she wishes to make to the TSP or may stop contributions only in accordance with 5 CFR part 1600.

Subpart C—Redistributing Participants' Existing Account Balances (Interfund Transfers)

§ 1601.21 Applicability.

This subpart applies only to interfund transfers, which involve redistributing participants' existing account balances among the TSP's investment funds; it does not apply to the investment of future deposits, which is covered in subpart B of this part.

§ 1601.22 Methods of requesting an interfund transfer.

(a) Participants may make an interfund transfer using the TSP Web site or the ThriftLine, or by completing a Form TSP–50 or Form TSP–U–50, Investment Allocation. The following rules apply to an interfund transfer request:

(1) Interfund transfer requests must be made in whole percentages (one percent increments). The sum of the percentages elected for all of the investment funds must equal 100 percent.

(2) The percentages elected by the participant will be applied to the balances in each source of contributions and to both tax-deferred and tax-exempt balances on the effective date of the interfund transfer.

(3) Any participant who elects to invest in the F Fund, C Fund, S Fund, or I Fund for the first time must execute an acknowledgment of risk in accordance with § 1601.33. In addition, a participant who, before June 2003, has only acknowledged the risk of investing in the F Fund or C Fund, must execute an acknowledgment of risk in accordance with § 1601.33 before making any new election to invest in the F Fund, C Fund, S Fund, or I Fund.

(b) An interfund transfer request has no effect on deposits made after the effective date of the interfund transfer request; subsequent deposits will continue to be allocated among the investment funds in accordance with the participant's contribution allocation made under subpart B of this part.

(c) If an interfund transfer on a Form TSP–50 or Form TSP–U–50 is found to be invalid pursuant to § 1601.34, the purported transfer will not be made. The TSP will provide the participant with a written statement of the reason the transaction was rejected.

Subpart D—Contribution Allocations and Interfund Transfer Requests

■ 12. Section 1601.32 is revised to read as follows:

§ 1601.32 Timing and posting dates.

(a) *Posting dates.* (1) A contribution allocation or an interfund transfer entered into the TSP record keeping system by a participant who uses the TSP Web site or the ThriftLine, or by a TSP Service Office participant service representative at the participant's request, at or before 11 a.m. central time of any business day, will ordinarily be posted that business day. A contribution allocation or an interfund transfer request made on the TSP Web site, the ThriftLine, or with a TSPSO participant service representative, after 11 a.m. central time of any business day will ordinarily be posted on the next business day.

(2) A contribution allocation or an interfund transfer request made on the TSP Web site or the ThriftLine on a non-business day will ordinarily be posted on the next business day.

(3) A contribution allocation or an interfund transfer request made on Form TSP–50 or Form TSP–U–50 will ordinarily be posted under the rules in paragraph (a)(1) of this section, based on when the form is entered into the TSP system by the TSP record keeper. The TSP record keeper ordinarily enters such forms into the system within 24 hours of their receipt.

(4) In most cases, the share price(s) applied to an interfund transfer request is the value of the shares on the date the relevant transaction is posted. In some circumstances, such as error correction, the share price(s) for an earlier date will be used.

(b) *Limit.* There is no limit on the number of contribution allocations or interfund transfer requests that may be made by a participant.

(c) *Multiple contribution allocations or interfund transfer requests.* (1) If two or more contribution allocations or two or more interfund transfer requests are received for a participant and would be posted on the same day, the following rules will apply:

(i) If one or more of the contribution allocations or interfund transfer requests are submitted through the Web site or the ThriftLine and one or more are made on Form TSP–50 or Form TSP–U–50 and would be posted on the same day, only the latest contribution allocation or interfund transfer request made through the Web site or the ThriftLine will be posted.

(ii) If one or more of the contribution allocations or interfund transfer requests are made through the TSP Web site or the ThriftLine, only the contribution allocation or interfund transfer request entered at the latest time will be posted.

(iii) If the contribution allocations or interfund transfer requests are submitted using Form TSP–50 or Form TSP–U–50, the forms will be posted in the order the TSP record keeper receives them.

(2) For purposes of determining the date and time of a contribution allocation or an interfund transfer request in applying the rules of this paragraph (c), the following rules apply:

(i) The date and time of a contribution allocation or interfund transfer request made through the TSP Web site or the ThriftLine is the date and time the participant confirms the percentages.

(ii) Central time is used for determining the date and time on which a transaction is entered and confirmed through the TSP Web site or the ThriftLine.

(d) *Cancellation of contribution allocation or interfund transfer request.* (1) A contribution allocation or an interfund transfer request may be cancelled through the TSP Web site or the ThriftLine, through written correspondence, or by contacting a participant service representative.

(2) A contribution allocation or an interfund transfer request may be cancelled by entering the cancellation on the TSP Web site or the ThriftLine only up to the deadline, described in paragraph (a) of this section, which applies to the original request. If a change or cancellation is received after the deadline, the original request will be processed as scheduled. Any subsequent request will then be processed in turn.

(3) A participant may also cancel a contribution allocation or an interfund transfer request by submitting a letter to the TSP record keeper that requests cancellation and meets the following requirements:

(i) The cancellation letter must be signed and dated and must contain the participant's name, Social Security number, and date of birth.

(ii) The cancellation for the pending transaction must be received and entered into the system before the cutoff for the day the relevant transaction is submitted for processing in order to be effective to cancel the transaction.

(iii) The letter must state unambiguously the specific contribution allocation or interfund transfer request it seeks to cancel.

(A) If it does not identify the specific contribution allocation or interfund transfer request it seeks to cancel, the written cancellation will apply to any pending contribution allocation or interfund transfer request with a date (as determined under this paragraph (d)(3)) before the date of the cancellation letter.

(B) If the date of a cancellation letter is the same as the date of a pending contribution allocation or an interfund transfer request and the request was

made on Form TSP–50 or Form TSP–U–50, the form will be cancelled.

(C) If the request was made on the TSP Web site or ThriftLine, it will only be cancelled if the written cancellation specifies the date of the TSP Web site or ThriftLine request to be cancelled.

(D) If there is no contribution allocation or interfund transfer pending when the written cancellation is processed by the TSP record keeper, the cancellation will have no effect. Cancellation letters will not be held until a contribution allocation or interfund transfer request is received.

■ 13. Section 1601.34 is revised to read as follows:

§ 1601.34 Effectiveness of Form TSP–50 or Form TSP–U–50.

A Form TSP–50 or Form TSP–U–50 will not be effective if:

(a) It is not signed and dated or if it contains a future date, a date more than one year before the TSP's receipt of the form, or an invalid date.

(b) It is missing a Social Security number, date of birth, or the participant's first or last name.

(c) The participant's date of birth does not match the information in the TSP records.

(d) The contribution allocation or interfund transfer percentages do not total 100 percent, or the percentages are not entered as whole numbers. An error to one of the transactions under this paragraph (d) will not invalidate the other transaction, but only the transaction for which the error occurred.

(e) Any other reasons that may be determined by the Executive Director.

PART 1603—VESTING

■ 14. The authority citation for part 1603 continues to read as follows:

Authority: 5 U.S.C. 8432(g), 8432b(h)(1), 8474(b)(5) and (c)(1).

■ 15. Section 1603.1 is revised to read as follows:

§ 1603.1 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) As used in this part:

Service means:

(1) Any non-military service that is creditable under either 5 U.S.C. chapter 83, subchapter III, or 5 U.S.C. 8411. However, that service is to be determined without regard to any time limitations, any deposit or redeposit requirements contained in those statutory provisions after performing the service involved, or any requirement that the individual give written notice of that individual's desire to become subject to the retirement system established by 5 U.S.C. chapters 83 or 84; or

(2) Any military service creditable under the provisions of 5 U.S.C. 8432b(h)(1) and the regulations at 5 CFR part 1620, subpart H.

Uniformed services means the Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service, and National Oceanic and Atmospheric Administration, as well as members of the Ready Reserve including the National Guard.

Vested means those amounts in an individual account which are nonforfeitable.

*Year of servic*e means one full calendar year of service.

■ 16. Section 1603.2 is amended by revising paragraph (a) to read as follows:

§ 1603.2 Basic vesting rules.

(a) All amounts in a CSRS employee's or uniformed service member's individual account are immediately vested.

* * * * *

PART 1604—UNIFORMED SERVICES ACCOUNTS

■ 17. The authority citation for part 1604 is revised to read as follows:

Authority: 5 U.S.C. 8440e, 8474(b)(5) and (c)(1).

■ 18. Section 1604.4(a)(1) is revised to read as follows:

§ 1604.4 Contributions.

(a) * * *

(1) *Temporary percentage limitations.* Subject to paragraph (a)(2) of this section, the maximum TSP regular employee contribution (including contributions from pay earned in a combat zone) a service member may make for January through November 2003 is 8 percent of basic pay per pay period. The maximum contribution will increase one percent in December of each year until December 2005, after which the percentage of basic pay limit will not apply and the maximum contribution will be limited only as provided in paragraph (a)(2) of this section.

* * * * *

PART 1605—CORRECTION OF ADMINISTRATIVE ERRORS

■ 19. The authority citation for part 1605 is revised to read as follows:

Authority: 5 U.S.C. 8351, 8432a, and 8474(b)(5) and (c)(1).

Subpart A—General

■ 20. Section 1605.1 is revised to read as follows:

§ 1605.1 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) As used in this part:

''As of'' date means the date on which a TSP contribution or other transaction entailing acquisition of investment fund shares should have taken place. Employing agencies use this date on payment records to report makeup or late contributions or late loan payments.

Attributable pay date ordinarily means the pay date of an erroneous contribution for which a negative adjustment is being made or, in the case of the uniformed services, the pay date of a contribution that is being recharacterized from tax-deferred to tax-exempt, or vice versa. However, if the erroneous contribution was a makeup or late contribution, the attributable pay date is the ''as of'' date of the erroneous makeup or late contribution.

Board error means any act or omission by the Board that is not in accordance with applicable statutes, regulations, or the Board's administrative procedures that are made available to employing agencies and/or TSP participants.

Breakage means the loss incurred or the gain realized on makeup or late contributions. It is the difference between the value of the shares of the applicable investment fund(s) that would have been purchased had the contribution been made on the ''as of'' date and the value of the shares of the same investment fund(s) on the date the contribution is posted to the account.

Employing agency error means any act or omission by an employing agency, which is not in accordance with all applicable statutes, regulations, or administrative procedures, including internal procedures promulgated by the employing agency and TSP procedures provided to employing agencies by the Board.

FERCCA correction means the correction of a retirement coverage error pursuant to the Federal Erroneous Retirement Coverage Corrections Act, title II, Public Law 106–265, 114 Stat. 770.

Late contributions means:

(1) Employee contributions that were timely deducted from a participant's basic pay but were not timely reported to the TSP record keeper for investment;

(2) Employee contributions that were timely reported to the TSP but were not timely posted to the participant's

account by the TSP because the payment record on which they were submitted contained errors;

(3) Agency matching contributions attributable to employee contributions referred to in paragraphs (1) or (2) of this definition; and

(4) Delayed agency automatic (1%) contributions.

Makeup contributions are employee contributions that should have been deducted from a participant's basic pay or employer contributions that should have been charged to an employing agency on an earlier date, but were not deducted or charged and, consequently, are being deducted or charged currently.

Negative adjustment means the removal of money from a participant's TSP account by an employing agency.

Negative adjustment record means a data record submitted by an employing agency to remove from a participant's TSP account money that the agency had previously submitted in error.

Pay date means the date established by an employing agency for paying its employees or service members.

Payment record means a data record submitted by an employing agency to report contributions or loan payments to a participant's TSP account.

Record keeper error means any act or omission by the TSP record keeper, which is not in accordance with applicable statutes, regulations, or administrative procedures made available to employing agencies and/or TSP participants.

■ 21. A new § 1605.2 is added to Subpart A to read as follows:

§ 1605.2 Calculating, posting, and charging breakage.

(a) Breakage will be calculated on makeup agency contributions that are reported on current payment records, and on makeup and late contributions from all sources that are reported on late payment records.

(b) *Calculating breakage.* The TSP will calculate breakage as follows:

(1) *For contributions with ''as of'' dates after December 31, 2000,* the TSP will use three steps to calculate breakage:

(i) The TSP will use the participant's contribution allocation on file for the ''as of'' date to determine how the contributions would have been invested. If there is no contribution allocation on file, or one cannot be derived based on the investment of contributions, the TSP will consider the contributions to have been invested in the G Fund;

(ii) The TSP will then determine the number of shares of the applicable investment funds the participant would have received had the contributions been made on time. If the ''as of'' date is before TSP account balances were converted to shares, this determination will be the number of shares the participant would have received on the conversion date, and will include the monthly earnings the participant would have received had the contributions been made on the ''as of'' date; and

(iii) The TSP will next determine the dollar value on the posting date of the number of shares the participant would have received had the contributions been made on time. The difference between the dollar value of the contribution on the posting date and the dollar value of the contribution on the ''as of'' date is the breakage.

(2) *For contributions with an ''as of'' date before January 1, 2000,* the TSP will use two steps to calculate breakage:

(i) The TSP will value the contributions from the ''as of'' date through the date TSP accounts were converted to shares, by using the greater of either the G Fund monthly rate of return or the average monthly rate of return for all TSP investment funds; and

(ii) The TSP will determine the dollar value of the contributions on the posting date by using the greater of either the G Fund share price or the average share price for all five TSP investment funds. The difference between the dollar value of the contribution on the posting date and the dollar value of the contribution on the ''as of'' date is the breakage.

(c) *Posting contributions.* Makeup and late contributions, as well as breakage, will be posted to the participant's account according to his or her contribution allocation on file for the posting date. If there is no contribution allocation on file for the posting date, they will be posted to the G Fund.

(d) *Charging breakage.* If the dollar amount posted to the participant's account is greater than the dollar amount of the makeup or late contribution (*i.e.*, the value of the shares is higher on the posting date), the agency will be charged the additional amount. If the dollar amount posted to the participant's account is less than the dollar amount of the makeup or late contribution (*i.e.*, the value of the shares is lower on the posting date), the difference between the amount of the contribution and the amount posted will be forfeited to the TSP.

(e) *Posting of multiple contributions.* If the TSP posts multiple makeup or late contributions with different ''as of'' dates for a participant on the same business day, the amount of breakage charged to the employing agency or forfeited to the TSP will be determined separately for each contribution, without netting any gains or losses attributable to different ''as of'' dates. In addition, gains and losses from different sources of contributions or different investment funds will not be netted against each other. Instead, breakage will be determined separately for each as-of date, investment fund, and source of contributions.

Subpart B—Employing Agency Errors

■ 22. Section 1605.11 is revised to read as follows:

§ 1605.11 Makeup of missed or insufficient contributions.

(a) *Applicability.* This section applies whenever, as the result of an employing agency error, a participant does not receive all of the TSP contributions to which he or she is entitled. This includes situations in which an employing agency error prevents a participant from making an election to contribute to his or her TSP account, in which an employing agency fails to implement a contribution election properly submitted by a participant, in which an employing agency fails to make agency automatic (1%) contributions or agency matching contributions that it is required to make, or in which an employing agency otherwise erroneously contributes less to the TSP for a participant's account than it should have. The corrections required by this section must be made in accordance with this part and the procedures provided to employing agencies by the Board in bulletins or other guidance. It is the responsibility of the employing agency to determine whether it has made an error that entitles a participant to error correction under this section.

(b) *Employer makeup contributions.* If an employing agency has failed to make agency automatic (1%) contributions that are required under 5 U.S.C. 8432(c)(1)(A), agency matching contributions that are required under section 8432(c)(2), or matching contributions that are authorized under 37 U.S.C. 211(d), the following rules apply:

(1) The employing agency must promptly submit all missed contributions to the TSP record keeper on behalf of the affected participant. For each pay date involved, the employing agency must submit a separate payment record showing the ''as of'' date for the contributions.

(2) The TSP will calculate the breakage due to the participant and post both the contributions and the associated breakage to the participant's account in accordance with § 1605.2.

(c) *Employee makeup contributions.* Within 30 days of receiving information from his or her employing agency indicating that the employing agency acknowledges that an error has occurred which has caused a smaller amount of employee contributions to be made to the participant's account than should have been made, a participant may elect to establish a schedule to make up the deficient contributions through future payroll deductions. Employee makeup contributions can be made in addition to any TSP contributions that the participant is otherwise entitled to make. The following rules apply to employee makeup contributions:

(1) The schedule of makeup contributions elected by the participant must establish the dollar amount of the contributions to be made each pay period over the duration of the schedule. The contribution amount per pay period may vary during the course of the schedule, but the total amount to be contributed must be established when the schedule is created. After the schedule is created, a participant may, with the agreement of his or her agency, elect to change his or her payment amount (*e.g.*, to accelerate payment). The length of the schedule may not exceed four times the number of pay periods over which the error occurred.

(2) At its discretion, an employing agency may set a ceiling on the length of a schedule of employee makeup contributions which is less than four times the number of pay periods over which the error occurred. The ceiling may not, however, be less than twice the number of pay periods over which the error occurred.

(3) The employing agency must implement the participant's schedule of makeup contributions as soon as practicable.

(4) For each pay date involved, the employing agency must submit a separate payment record showing the ''as of'' date for which the employee contribution should have been made. An employee is not eligible to make up contributions with an ''as of'' date occurring during a period of six months following a financial hardship in-service withdrawal, as provided in 5 CFR 1650.33. An employee may make up contributions during a period of ineligibility due to a hardship withdrawal as long as the ''as of'' date is for an earlier period.

(5) Employee makeup contributions will be invested in accordance with the participant's current contribution allocation. The number of shares of each investment fund that will be purchased will be determined by dividing the amount of the makeup contributions by the share price of the applicable investment fund(s) on the posting date.

(6) Employee makeup contributions will not be considered in applying the maximum amount per pay period that a participant is permitted to contribute to the TSP, but will be included for purposes of applying the annual limit contained in section 402(g) of the Internal Revenue Code (26 U.S.C. 402(g)(1)). For purposes of applying the annual limit of section 402(g), employee makeup contributions will be applied against the limit for the year of the ''as of'' date.

(i) Before establishing a schedule of employee makeup contributions, the employing agency must review any schedule proposed by the affected participant, as well as the participant's prior TSP contributions, if any, to determine whether the makeup contributions, when combined with prior contributions for the same year, would exceed the annual contribution limit(s) contained in section 402(g) for the year(s) with respect to which the contributions are being made.

(ii) The employing agency must not permit contributions that, when combined with prior contributions, would exceed the applicable annual contribution limit contained in section 402(g).

(7) A schedule of employee makeup contributions may be suspended if a participant has insufficient net pay to permit the makeup contributions. If this happens, the period of suspension should not be counted against the maximum number of pay periods to which the participant is entitled in order to complete the schedule of makeup contributions.

(8) A participant may elect to terminate a schedule of employee makeup contributions at any time, but a termination is irrevocable. A participant may not elect to make partial payments under the schedule. If a participant separates from Government service, the participant may elect to accelerate the payment schedule by a lump sum contribution from his or her final paycheck.

(9) At the same time that a participant makes up missed employee contributions, the employing agency must make any agency matching contributions that would have been made had the error not occurred. Agency matching contributions must be submitted pursuant to the rules set forth in paragraph (b) of this section. A participant may not receive matching contributions associated with any employee contributions that are not actually made up. If employee makeup contributions are suspended in accordance with paragraph (c)(7) of this section, the payment of agency matching contributions must also be suspended.

(10) If a participant transfers to an employing agency different from the one by which the participant was employed at the time of the missed contributions, it remains the responsibility of the former employing agency to determine whether employing agency error was responsible for the missed contributions. If it is determined that such an error has occurred, the current agency must take any necessary steps to correct the error. The current agency may seek reimbursement from the former agency of any amount that would have been paid by the former agency had the error not occurred.

(11) Employee makeup contributions may be made only by payroll deduction from basic pay or, for uniformed services participants, from basic pay, incentive pay, or special pay, including bonus pay. Contributions by check, money order, cash, or other form of payment directly from the participant to the TSP, or from the participant to the employing agency for deposit to the TSP, are not permitted.

■ 23. Section 1605.12 is amended by revising paragraphs (a), (b)(1), (c), (f)(1), and (f)(2) to read as follows:

§ 1605.12 Removal of erroneous contributions.

(a) *Applicability.* This section applies to the removal of funds erroneously contributed to the TSP. The TSP calls this action a negative adjustment, and it is only available to remove erroneous contributions made after December 31, 2000. Erroneous contributions made on or before December 31, 2000, will remain in the participant's account. Excess contributions addressed by this section include, for example, excess employee contributions that result from employing agency error and excess employer contributions. This section does not address excess contributions resulting from a FERCCA correction; those contributions are addressed in § 1605.14.

(b) * * *

(1) To remove money from a participant's account, the employing agency must submit, for each attributable pay date involved, a negative adjustment record stating the amount of the erroneous contribution being removed, the attributable pay date with respect to which the erroneous contribution was made, and the source(s) of the contributions.

* * * * *

(c) *Processing negative adjustments.* A negative adjustment will be allocated

among investment funds in the same manner as the original contribution. The current value of the contributions that the agency seeks to remove by the negative adjustment will be calculated in accordance with the following rules:

(1) If the attributable pay date for the erroneous contribution is on or before the date TSP accounts were converted to shares (and after December 31, 2000), the TSP will:

(i) For each source of contributions, determine the dollar value of the amount to be removed from each investment fund, as of the last monthly valuation date before TSP accounts were converted to shares, by crediting the contribution with TSP investment fund returns;

(ii) For each source of contributions and each investment fund, convert the dollar value determined in paragraph (c)(1)(i) of this section to shares; and

(iii) Multiply the price per share for the date the adjustment is posted by the number of shares calculated in paragraph (c)(1)(ii) of this section.

(2) If the attributable pay date of the negative adjustment is after the date TSP accounts were converted to shares, the TSP will:

(i) For each source and type of contributions and for each investment fund, determine the number of shares that represent the amount of the contribution to be removed from the investment fund based upon the share price on the attributable pay date; and

(ii) Multiply the price per share on the date the adjustment is posted by the number of shares calculated in paragraph (c)(2)(i) of this section.

* * * * *

(f) * * *

(1) If multiple negative adjustments for the same attributable pay date for a participant are posted on the same business day, the amount removed from the participant's account and used to offset TSP administrative expenses or returned to the employing agency will be determined separately for each adjustment. Earnings and losses for erroneous contributions made on different dates will not be netted against each other. In addition, for a negative adjustment for any attributable pay date, gains and losses from different sources of contributions or different investment funds will not be netted against each other. Instead, for each attributable pay date each source of contributions and each investment fund will be treated separately for purposes of these calculations;

(2) The amount computed by application of the rules in this section will be removed from the participant's account *pro rata* from all investment funds, by source, based on the allocation of the participant's most recent account balance; and

* * * * *

■ 24. Section 1605.13 is amended by removing paragraph (a)(4) and by revising paragraphs (a)(3), (b)(3), and (d) to read as follows:

§ 1605.13 Back pay awards and other retroactive pay adjustments.

(a) * * *

(3) All makeup contributions under this paragraph (a) and associated breakage will be invested according to the participant's contribution allocation on the posting date. However, breakage will be calculated using the breakage rule described in § 1605.2 for the G Fund share prices and, if applicable, rates of return requested by the participant, unless the court or other tribunal with jurisdiction over the back pay case orders otherwise.

(b) * * *

(3) All makeup contributions under this paragraph (b) and associated breakage will be posted to the participant's account based on the participant's contribution allocation on the posting date. Breakage will be calculated either of two ways:

(i) If the retroactive adjustment relates to an ''as of'' date after December 31, 2000, the TSP will use the participant's contribution allocation on the ''as of'' date; or

(ii) If the retroactive adjustment relates to an ''as of'' date on or before December 31, 2000, the rate of return will be either the G Fund rate or the average of the rates of return for all of the TSP investment funds, whichever rate is greater.

* * * * *

(d) *Prior withdrawal of TSP account.* If a participant has withdrawn his or her TSP account other than by purchasing an annuity, and the separation from Government employment upon which the withdrawal was based is reversed, resulting in reinstatement of the participant without a break in service, the participant will have the option to restore the amount withdrawn to his or her TSP account. The right to restore the withdrawn funds will expire if the participant does not provide notice to the Board within 90 days of reinstatement. If the participant returns the funds that were withdrawn, the number of shares purchased will be determined by using the share price of the applicable investment fund on the posting date. No breakage will be incurred on any restored funds.

* * * * *

■ 25. Section 1605.14 is amended by revising the section heading and paragraphs (a) and (b) to read as follows:

§ 1605.14 Misclassified retirement system coverage.

(a) If a CSRS participant is misclassified by an employing agency as a FERS participant, when the misclassification is corrected:

(1) Employee contributions that exceed the applicable contribution percentage for the pay period(s) involved may remain in the participant's account. The participant may request the return of excess employee contributions made after December 31, 2000; those contributed on or before December 31, 2000, must remain in the participant's account. If the participant requests a refund of excess employee contributions, the employing agency must submit a negative adjustment records to remove these funds, under the procedure described in § 1605.12.

(2) The TSP will forfeit all agency contributions that were made to a CSRS participant's account. An employing agency may submit a negative adjustment record to request the return of an erroneous contribution that has been in the participant's account for less than one year.

(b) If a FERS participant is misclassified by an employing agency as a CSRS participant, when the misclassification is corrected:

(1) The participant may not elect to have the contributions made while classified as CSRS removed from his or her account;

(2) The participant may, under the rules of § 1605.11, elect to make up contributions that he or she would have been eligible to make as a FERS participant during the period of misclassification;

(3) The employing agency must, under the rules of § 1605.11, make agency automatic (1%) contributions and agency matching contributions on employee contributions that were made while the participant was misclassified;

(4) If the retirement coverage correction is a FERCCA correction, the employing agency must submit makeup employee contributions on late payment records. The participant is entitled to breakage (or lost earnings) on contributions from all three sources. Breakage (or lost earnings) will be calculated pursuant to § 1605.2. If the retirement coverage correction is not a FERCCA correction, the employing agency must submit makeup employee contributions on current payroll records; in such cases, the employee is not entitled to breakage. Agency

makeup contributions may be submitted on either current or late payment records; and

(5) If employee contributions were made up before the Office of Personnel Management implemented its regulations on FERCCA correction, and the correction is considered to be a FERCCA correction, an amount to replicate TSP lost earnings will be calculated by the Office of Personnel Management pursuant to its regulations and provided to the employing agency for transmission to the TSP record keeper.

* * * * *

■ 26. A new § 1605.15 is added to read as follows:

§ 1605.15 Reporting and processing late contributions and late loan payments.

(a) The employing agency must promptly submit late contributions to the TSP record keeper on behalf of the affected participant on late payment records as soon as the error is discovered. For each pay date involved, the employing agency must submit a separate record showing the ''as of'' date for the contributions. Breakage for both employee and agency contributions will be calculated, posted, and charged to the agency or forfeited to the TSP in accordance with § 1605.2.

(b) If an employing agency deducts loan payments from a participant's pay, but fails to submit those payments to the TSP for the pay date for which they were deducted (or submits them in a manner that prevents them from being timely credited to the participant's account), the employing agency will be responsible for paying breakage using the procedure described in § 1605.2. The loan payment record must contain the ''as of'' date for which the loan payment was deducted.

(c) All contributions or loan payments on payment records contained in a payroll submission that was received from an employing agency more than 30 days after the pay date associated with the payroll submission (as reported on the appropriate journal voucher), will be subject to breakage calculated, posted, and charged to the employing agency (or forfeited to the TSP) in accordance with § 1605.2. The employing agency will be apprised of the breakage due for each record reported on the late submission.

PART 1606—LOST EARNINGS ATTRIBUTABLE TO EMPLOYING AGENCY ERRORS

■ 27. The authority citation for part 1606 continues to read as follows:

Authority: 5 U.S.C. 8432a, 8474(b)(3) and (c)(1). Section 1606.5 also issued under Title II, Pub. L. 106–265, 114 Stat. 770.

Subpart A—General Provisions

■ 28. Section 1606.1 is revised to read as follows:

§ 1606.1 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) Definitions generally applicable to employing agency errors and their correction are set forth at 5 CFR 1605.1.

(c) As used in this part:

Lost earnings record means a data record containing information enabling the TSP system to compute lost earnings.

■ 29. Section 1606.2 is revised to read as follows:

§ 1606.2 Purpose.

(a) With the implementation of the TSP's daily valued record keeping system, losses suffered by participants arising out of employing agency errors will be corrected by calculating and posting breakage to an affected participant's account. Breakage will be calculated as described in 5 CFR 1605.2. However, in some cases, an employing agency may have submitted contributions subject to lost earnings before implementation of the daily valued record keeping system, but did not submit the requisite lost earnings record. Therefore, until September 1, 2003, employing agencies may submit separate lost earnings records for makeup and late contributions submitted before implementation of the new record keeping system. All payments posted after implementation of the new record keeping system are covered under 5 CFR part 1605.

(b) After August 31, 2003, the use of lost earning records will be discontinued.

■ 30. Section 1606.4 is amended by revising paragraph (c) to read as follows:

§ 1606.4 Applicability.

* * * * *

(c) As explained in § 1606.2, this part applies to errors that occurred before September 1, 2003.

* * * * *

Subpart B—Lost Earnings Attributable to Delayed or Erroneous Contributions

■ 31. Section 1606.5 is amended by revising paragraph (a)(4) to read as follows:

§ 1606.5 Failure to timely make or deduct TSP contributions when participant received pay.

(a) * * *

(4) The lost earnings will be posted to the participant's account based on the contribution allocation in effect on the posting date.

* * * * *

§§ 1606.7 and 1606.8 [Removed]

■ 32. Sections 1606.7 and 1606.8 are removed.

Subpart C—Lost Earnings Not Attributable to Delayed or Erroneous Contributions

■ 33. Section 1606.9 is removed.

Subpart E—Processing Lost Earnings Records

■ 34. Section 1606.13 is revised to read as follows:

§ 1606.13 Calculation and crediting of lost earnings.

(a) Lost earnings records submitted pursuant to this part will be processed daily by the TSP record keeper.

(b) In calculating lost earnings attributable to a lost earnings record, earnings and losses for different sources of contributions or investment funds within a source will not be offset against each other.

(c) Notwithstanding any other provision of this part, where the net lost earnings computed in accordance with this part on any lost earnings record are less than zero within a source of contributions, the employing agency will not be credited with respect to that source of contributions. The amount of the negative lost earnings will be removed from the participant's account and applied against TSP administrative expenses.

Subpart F—[Removed]

■ 35. Subpart F of part 1606 is removed.

■ 36. Part 1640 is revised to read as follows:

PART 1640—PERIODIC PARTICIPANT STATEMENTS

Sec.

1640.1 Definitions.
1640.2 Information regarding account.
1640.3 Statement of individual account.
1640.4 Account transactions.
1640.5 Investment fund information.
1640.6 Methods of providing information.

Authority: 5 U.S.C. 8439(c)(1) and (c)(2), 5 U.S.C. 8474(b)(5) and (c)(1).

§ 1640.1 Definitions.

Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

§ 1640.2 Information regarding account.

The Board will provide to each participant four (4) times each calendar year the information described in §§ 1640.3, 1640.4, and 1640.5. Plan participants can obtain account balance information on a more frequent basis from the TSP Web site and the ThriftLine.

§ 1640.3 Statement of individual account.

In the quarterly statements, the Board will furnish each participant with the following information concerning the participant's individual account:

(a) Name, Social Security number, and date of birth under which the account is established;

(b) Retirement system coverage and employment status of the participant, as provided by the employing agency;

(c) Statement whether the participant has a beneficiary designation on file with the TSP record keeper;

(d) Contribution allocation that is current at the end of the statement period;

(e) Beginning and ending dates of the period covered by the statement;

(f) The following information for and, as of the close of business on the ending date of, the period covered by the statement:

(1) The total account balance and tax-exempt balance, if applicable;

(2) The account balance and activity for each source of contributions;

(3) The account balance and activity in each of the investment funds, including the dollar amount of the transaction, the share price, and the number of shares; and

(4) Loan information and activity, if applicable;

(g) Any other information concerning the account that the Board determines should be included in the statement.

§ 1640.4 Account transactions.

(a) Where relevant, the following transactions will be reported in each individual account statement:

(1) Contributions;

(2) Withdrawals;

(3) Forfeitures;

(4) Loan disbursements and repayments;

(5) Transfers among investment funds;

(6) Adjustments to prior transactions;

(7) Transfers or rollovers from traditional individual retirement accounts (IRAs) and eligible employer plans; and

(8) Any other transaction that the Executive Director determines will affect the status of the individual account.

(b) Where relevant, the statement will contain the following information concerning each transaction identified in paragraph (a) of this section:

(1) Type of transaction;

(2) Investment funds affected;

(3) Date the transaction was posted and, where relevant, any earlier dates on which the transaction should have been posted or from which the calculation of the amount of the transaction was derived;

(4) Source of the contributions affected by the transaction;

(5) Amount of the transaction (in dollars and in shares);

(6) The share price(s) at which the transaction was posted; and

(7) Any other information the Executive Director deems relevant.

§ 1640.5 Investment fund information.

Each open season, the Board will furnish each participant a statement concerning each of the investment funds. This statement will contain the following information concerning each investment fund:

(a) A summary description of the type of investments made by the fund, written in a manner that will allow the participant to make an informed decision; and

(b) The performance history of the type of investments made by the fund, covering the five-year period preceding the date of the evaluation.

§ 1640.6 Methods of providing information.

(a) *Individual account statement.* The information concerning each participant's individual account described in §§ 1640.3 and 1640.4 will be sent to the participant at the participant's address of record in the TSP system by first class mail, unless otherwise elected under paragraph (b) of this section. It is the participant's responsibility to provide his or her current address to his or her agency or service or, in the case of a separated participant, to the TSP record keeper. For employed participants, the employing agency must provide the current address to the TSP record keeper.

(b) *Individual account statements available from the TSP Web site.* As an alternative to receiving an account statement by mail as provided in paragraph (a) of this section, participants may elect to receive their individual account statements by accessing the TSP Web site. Participants who elect to receive their statements from the TSP Web site will not receive a statement by mail.

(c) *Investment information.* The investment information described in § 1640.5 will be furnished to each participant by:

(1) Mailing the information to the participant by the method described in paragraph (a) of this section;

(2) Making the information available to the participant on the TSP Web site as described in paragraph (b) of this section; or

(3) Including the information in material published by the Board and distributed in a manner reasonably designed to reach the participant. This includes distributing the material through the participant's employing agency or service, or, in the case of a separated employee, through the TSP record keeper.

■ 37. Part 1645 is revised to read as follows:

PART 1645—CALCULATION OF SHARE PRICES

Sec.

1645.1 Definitions.
1645.2 Posting of transactions.
1645.3 Calculation of total net earnings for each investment fund.
1645.4 Administrative expenses attributable to each investment fund.
1645.5 Calculation of share prices.
1645.6 Basis for calculation of share prices.

Authority: 5 U.S.C. 8439(a)(3) and 8474.

§ 1645.1 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) As used in this part:

Accrued means that income is accounted for when earned and expenses are accounted for when incurred.

Administrative expenses means expenses described in 5 U.S.C. 8437(c)(3).

Basis means the number of shares of an investment fund upon which the calculation of a share price is based.

Business day means any calendar day for which share prices are calculated.

Forfeitures means amounts forfeited to the TSP pursuant to 5 U.S.C. 8432(g)(2) and other non-statutory forfeited amounts, net of restored forfeited amounts.

§ 1645.2 Posting of transactions.

Contributions, loan payments, loan disbursements, withdrawals, interfund transfers, and other transactions will be posted in dollars and in shares by source and by investment fund to the appropriate individual account by the TSP record keeper, using the share price for the date the transaction is posted.

§ 1645.3 Calculation of total net earnings for each investment fund.

(a) Each business day, net earnings will be calculated separately for each investment fund.

(b) Net earnings for each investment fund will equal:

(1) The sum of the following items, if any, accrued since the last business day:

(i) Interest on money of that investment fund which is invested in the Government Securities Investment Fund;

(ii) Interest on other short-term investments of the investment fund;

(iii) Other income (such as dividends, interest, or securities lending income) on investments of the investment fund; and

(iv) Capital gains or losses on investments of the investment fund, net of transaction costs.

(2) Minus the accrued administrative expenses of the investment fund, determined in accordance with § 1645.4.

(c) The net earnings for each investment fund determined in accordance with paragraph (b) of this section will be added to the residual net earnings for that investment fund from the previous business day, as described in § 1645.5(b), to produce the total net earnings. The total net earnings will be used to calculate the share price for that business day.

§ 1645.4 Administrative expenses attributable to each in-vestment fund.

A portion of the administrative expenses accrued during each business day will be charged to each investment fund. An investment fund's respective portion of administrative expenses will be determined as follows:

(a) Accrued administrative expenses (other than those described in paragraph (b) of this section) will be reduced by accrued forfeitures and accrued earnings on forfeitures, abandoned accounts, and unapplied deposits;

(b) Investment management fees and other accrued administrative expenses attributable only to the F Fund, C Fund, S Fund, or I Fund will be charged solely to the F Fund, C Fund, S Fund, or I Fund, respectively;

(c) The amount of accrued administrative expenses not covered by forfeitures under paragraph (a) of this section, and not described in paragraph (b) of this section, will be charged on a *pro rata* basis to all investment funds, based on the respective investment fund balances on the last business day of the prior month end.

§ 1645.5 Calculation of share prices.

(a) *Calculation of share price.* The shares of each investment fund will have an initial value of $10.00. The share price for each investment fund for each business day will apply to all sources of contributions for that investment fund. The total net earnings (as computed under § 1645.3) for each investment fund will be divided by the total fund basis (as computed under § 1645.6) for that investment fund. The resulting number, computed to ten decimal places, represents the incremental change for the current business day in the value of that investment fund from the last business day. The share price for that investment fund for the current business day is the sum of the incremental change in the share price for the current business day plus the share price for the prior business day, truncated to two decimal places.

(b) *Residual net earnings.* When the total net earnings for each business day for each investment fund are divided by the total fund basis in that investment fund, there will be residual net earnings attributable to the truncation described in paragraph (a) of this section that will not be included in the incremental change in the share price of the investment fund for that business day. The residual net earnings that are not included in the incremental share price for the investment fund may be added to the earnings for that investment fund on the next business day.

§ 1645.6 Basis for calculation of share prices.

The total fund basis for each investment fund will be the sum of the number of shares in all individual accounts from all sources of contributions in that investment fund as of the opening of business on each business day.

■ 38. Part 1650 is revised to read as follows:

PART 1650—METHODS OF WITHDRAWING FUNDS FROM THE THRIFT SAVINGS PLAN

Subpart A—General

Sec.

1650.1 Definitions.
1650.2 Eligibility for a TSP withdrawal.
1650.3 Frozen accounts.
1650.4 Certification of truthfulness.
1650.5 Returned funds

Subpart B—Post-Employment Withdrawals

1650.11 Withdrawal elections.
1650.12 Single payment.
1650.13 Monthly payments.
1650.14 Annuities.
1650.15 Abandonment of inactive accounts.
1650.16 Required withdrawal date.
1650.17 Changes and cancellation of a withdrawal request.

Subpart C—Procedures for Post-Employment Withdrawals

1650.21 Information provided by employing agency.
1650.22 Accounts of $200 or more.
1650.23 Accounts of less than $200.
1650.24 How to obtain a post-employment withdrawal.
1650.25 Taxes related to post-employment withdrawals.

Subpart D—In-Service Withdrawals

1650.31 Age-based withdrawals.
1650.32 Financial hardship withdrawals.
1650.33 Contributing to the TSP after an in-service withdrawal.
1650.34 Uniqueness of loans and withdrawals.

Subpart E—Procedures for In-Service Withdrawals

1650.41 How to obtain an age-based withdrawal.
1650.42 How to obtain a financial hardship withdrawal.
1650.43 Taxes related to in-service withdrawals.

Subpart F—[Reserved]

Subpart G—Spousal Rights

1650.61 Spousal rights applicable to post-employment withdrawals.
1650.62 Spousal rights applicable to in-service withdrawals.
1650.63 Executive Director's exception to the spousal notification requirement.
1650.64 Executive Director's exception to the spousal consent requirement.

Authority: 5 U.S.C. 8351, 8433, 8434, 8435, 8474(b)(5), and 8474(c)(1).

Subpart A—General

§ 1650.1 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) As used in this part:

Eligible employer plan means a plan qualified under I.R.C. section 401(a) (26 U.S.C. 401(a)), including a section 401(k) plan, profit-sharing plan, defined benefit plan, stock bonus plan, and money purchase plan; an annuity plan described in I.R.C. section 403(a) (26 U.S.C. 403(a)); an annuity contract described in I.R.C. section 403(b) (26 U.S.C. 403(b)); and an eligible deferred compensation plan described in I.R.C. section 457(b) (26 U.S.C. 457(b)) which is maintained by an eligible employer described in I.R.C. section 457(e)(1)(A) (26 U.S.C. 457(e)(1)(A)).

In-service withdrawal means an age-based or financial hardship withdrawal from the TSP that may be available to a participant who has not yet separated from Government service.

Post-employment withdrawal means a withdrawal from the TSP that is available to a participant who is separated from Government service.

Traditional IRA means an individual retirement account described in I.R.C. section 408(a) (26 U.S.C. 408(a)) and an individual retirement annuity described in I.R.C. section 408(b) (26 U.S.C. 408(b)) (other than an endowment contract). (It does not include a Roth IRA, a SIMPLE IRA, or a Coverdell Educational Savings Account (formerly known as an educational IRA).)

§ 1650.2 Eligibility for a TSP withdrawal.

(a) A participant who is separated from Government service can elect to withdraw a portion of his or her account balance in a single payment, or the entire account balance by one or a combination of the withdrawal methods described in subpart B of this part.

(b) A post-employment withdrawal will not be paid unless TSP records indicate that the participant is separated from Government service. The TSP will cancel a post-employment withdrawal election upon receiving information from an employing agency that a participant is no longer separated.

(c) A participant cannot make a post-employment withdrawal until any outstanding TSP loan has either been repaid in full or declared to be a taxable distribution. An outstanding TSP loan will not affect a participant's eligibility for an in-service withdrawal.

(d) A separated participant who is reemployed in a position in which he or she is eligible to participate in the TSP is subject to the following rules:

(1) A participant who is reemployed in a TSP-eligible position on or before the 31st full calendar day after separation is not eligible to withdraw his or her TSP account in accordance with subpart B of this part.

(2) A participant who is reemployed in a TSP-eligible position more than 31 full calendar days after separation and who made a post-employment withdrawal while separated may not withdraw any remaining portion of his or her account balance in accordance with subpart B of this part until he or she again separates from Government service.

(e) A participant who has not separated from Government service may be eligible to withdraw all or a portion of his or her account in accordance with subparts D and E of this part.

(f) A participant can elect to have any portion of a single or monthly payment that is not transferred to an eligible employer plan or traditional IRA deposited directly, by electronic funds transfer, into a savings or checking account at a financial institution in the United States.

(g) If a participant has a civilian TSP account and a uniformed services TSP account, the rules in this part apply to each account separately. For example, the participant is eligible to make one age-based in-service withdrawal from each account.

§ 1650.3 Frozen accounts.

(a) All withdrawals from the TSP are subject to the rules relating to spousal rights (found in subpart G of this part) and to domestic relations orders, alimony and child support legal process, and child abuse enforcement orders (found in 5 CFR part 1653).

(b) A participant may not withdraw any portion of his or her account balance if the account is frozen due to a pending retirement benefits court order, an alimony or child support enforcement order, or a child abuse enforcement order, or because a freeze has been placed on the account by the TSP for another reason.

§ 1650.4 Certification of truthfulness.

(a) By signing a TSP withdrawal form, electronically or on paper, the participant certifies, under penalty of perjury, that all information provided to the TSP during the withdrawal process is true and complete, including statements concerning the participant's marital status and, where applicable, the spouse's address at the time the application is filed or the current spouse's consent to the withdrawal.

(b) If the Board receives a written allegation from the spouse that the participant may have misrepresented his or her marital status (in the case of a CSRS participant), the spouse's address, or that the signature of the spouse of a FERS participant or uniformed services member was forged, the Board will submit the information or document in question to the spouse and request that he or she state in writing that the information is false or that the spouse's signature was forged. In the event of an alleged forgery, the Board will also request the spouse to provide at least three samples of his or her signature.

(c) If the spouse affirms the allegation, the Board will conduct an investigation. If, during its investigation, the Board finds evidence to suggest that the participant misrepresented his or her marital status or, in the case of a CSRS participant, his or her spouse's address, or submitted the withdrawal form with a forged spousal signature, the Board will refer the case to the Department of Justice for criminal prosecution and, if the participant is still employed, to the Inspector General or other appropriate authority in the participant's employing agency for administrative action.

§ 1650.5 Returned funds.

If a withdrawal is returned as undeliverable, the TSP record keeper will attempt to locate the participant. If the participant does not respond within 60 days, the TSP will forfeit the returned funds to the Plan. The participant can claim the forfeited funds, although they will not be credited with TSP investment fund returns.

Subpart B—Post-Employment Withdrawals

§ 1650.11 Withdrawal elections.

(a) Subject to the restrictions in this subpart, participants may elect to withdraw all or a portion of their TSP accounts in a single payment, a series of monthly payments, a life annuity, or any combination of these options.

(b) If a participant's account balance is less than $5.00 when he or she separates from Government service, the balance will automatically be forfeited to the TSP. The participant can reclaim the money by writing to the TSP record keeper and requesting the amount that was forfeited; however, TSP investment earnings will not be credited to the account after the date of the forfeiture.

§ 1650.12 Single payment.

(a) *Partial withdrawal.* A participant can elect to withdraw a portion of his or her account balance in a single payment and leave the rest in the TSP until a later date, subject to § 1650.16 and the following requirements:

(1) The participant is eligible for a partial withdrawal only if he or she did not make an age-based in-service withdrawal from that account.

(2) The participant may not elect a partial withdrawal of less than $1,000.

(3) Only one partial withdrawal from that account is permitted.

(b) *Full withdrawal.* A participant can elect to withdraw his or her entire account balance in a single payment.

§ 1650.13 Monthly payments.

(a) A participant electing a full post-employment withdrawal (*i.e.*, a withdrawal of his or her entire account) can elect to withdraw all or a portion of the account balance in a series of substantially equal monthly payments, to be paid in one of the following manners:

(1) *A specific dollar amount.* The amount elected must be at least $25 per month; if the amount elected is less than $25 per month, the request will be rejected. Payments will be made in the amount requested each month until the account balance is expended.

(2) *A monthly payment amount calculated based on life expectancy.*

Payments based on life expectancy are determined using the factors set forth in the Internal Revenue Service life expectancy tables codified at 26 CFR 1.401(a)(9)–9, Q&A 1 and 2. The monthly payment amount is calculated by dividing the account balance by the factor from the IRS life expectancy tables based upon the participant's age as of his or her birthday in the year payments are to begin. This amount is then divided by 12 to yield the monthly payment amount. In subsequent years, the monthly payment amount is recalculated each January by dividing the prior December 31 account balance by the factor in the IRS life expectancy tables based upon the participant's age as of his or her birthday in the year payments will be made. There is no minimum amount for a monthly payment calculated based on this method.

(b) A participant receiving monthly payments calculated based upon life expectancy can make one election, during a period to be determined by the Executive Director, to change to a fixed monthly payment. A participant can change the amount of his or her fixed payments annually. A participant who is receiving monthly payments based on a fixed dollar amount, however, cannot elect to change to an amount calculated based on life expectancy.

(c) A participant receiving monthly payments, regardless of the calculation method, can elect at any time to receive the remainder of his or her account balance in a final single payment.

(d) The TSP will ensure that the annual total monthly payments satisfy any applicable minimum distribution requirement of the Internal Revenue Code by making a supplemental payment no later than the last date required by the Internal Revenue Service.

(e) A participant receiving monthly payments may change the investment of his or her account balance among the TSP investment funds as provided in 5 CFR part 1601.

(f) Participants who elect to withdraw their account balances in a series of monthly payments cannot transfer or roll over money from a traditional IRA or eligible employer plan into their TSP accounts. Participants who have both a civilian TSP account and a uniformed services TSP account cannot combine the two accounts if they are already receiving monthly payments from one of the accounts.

§ 1650.14 Annuities.

(a) A participant electing a full post-employment withdrawal can use all or a portion of his or her account balance to purchase a life annuity. The portion of the participant's account balance elected and available for the annuity purchase must be at least $3,500. The TSP will purchase the annuity from the TSP's annuity vendor using the participant's entire account balance or the portion specified, unless an amount must be paid directly to the participant to satisfy any applicable minimum distribution requirement of the Internal Revenue Code. In the event that a minimum distribution is required before the date of the first annuity payment, the TSP will compute that amount and pay it directly to the participant.

(b) An annuity will provide a payment for life to the participant and, if applicable, to the participant's survivor, in accordance with the type of annuity chosen. The TSP annuity vendor will make the first annuity payment approximately 30 days after the TSP purchases the annuity.

(c) The amount of an annuity payment will depend on the type of annuity chosen, the participant's age when the annuity is purchased (and the age of the joint annuitant, if applicable), the amount used to purchase the annuity, and the interest rate available when the annuity is purchased.

(d) Participants may choose among the following types of annuities:

(1) *A single life annuity with level payments.* This annuity provides monthly payments to the participant as long as the participant lives. The amount of the monthly payment remains constant.

(2) *A joint life annuity for the participant and spouse with level payments.* This annuity provides monthly payments to the participant, as long as both the participant and spouse are alive, and monthly payments to the survivor, as long as the survivor is alive. The amount of the monthly payment remains constant, although the amount received will depend on the type of survivor benefit elected.

(3) *A joint life annuity for the participant and another person with level payments.* This annuity provides monthly payments to the participant as long as both the participant and the joint annuitant are alive, and monthly payments to the survivor as long as the survivor is alive. The amount of the monthly payment remains constant. The joint annuitant must be either a former spouse or a person who has an insurable interest in the participant.

(i) A person has an ''insurable interest in the participant'' if the person is financially dependent on the participant and could reasonably expect to derive financial benefit from the participant's continued life.

(ii) A relative (either blood or adopted, but not by marriage) who is closer than a first cousin is presumed to have an insurable interest in the participant.

(iii) A participant can establish that a person not described in paragraph (d)(3)(ii) of this section has an insurable interest in him or her by submitting, with the annuity request, an affidavit from a person other than the participant or the joint annuitant that demonstrates that the designated joint annuitant has an insurable interest in the participant (as described in paragraph (d)(3)(i) of this section).

(4) *Either a single life or joint (with spouse) life annuity with increasing payments.* This annuity provides monthly payments to the participant only, or to the participant and spouse, as applicable. The monthly payments are adjusted once each year on the anniversary of the first payment, based on the Federal Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W). Each year, the percentage change in the monthly unadjusted CPI–W index for July, August, and September over the monthly unadjusted CPI–W index for July, August, and September of the prior year is calculated. The following calendar year, the amount of the monthly payment is adjusted by the lesser of 3 percent or the percentage increase in the CPI–W, if any. In no case will the amount of the monthly payment be decreased based on the CPI–W. If the participant chooses a joint life annuity, the annual increase also applies to benefits received by the survivor.

(e) A participant who chooses a joint life annuity (with a spouse, a former spouse, or a person with an insurable interest) must choose either a 50 percent or a 100 percent survivor benefit. The survivor benefit applies when either the participant or the joint annuitant dies.

(1) A 50 percent survivor benefit provides a monthly payment to the survivor which is 50 percent of the amount of the payment that is made when both the participant and the joint annuitant are alive.

(2) A 100 percent survivor benefit provides a monthly payment to the survivor, which is equal to the amount of the payment that is made when both the participant and the joint annuitant are alive.

(3) Either the 50 percent or the 100 percent survivor benefit may be combined with any joint life annuity option. However, the 100 percent survivor benefit can only be combined with a joint annuity with a person other than the spouse (or a former spouse, if required by a retirement benefits court

order) if the joint annuitant is not more than 10 years younger than the participant.

(f) The following features are mutually exclusive, but can be combined with certain types of annuities, as indicated:

(1) *Cash refund.* This feature provides that, if the participant (and joint annuitant, where applicable) dies before an amount equal to the balance used to purchase the annuity has been paid out, the difference between the balance used to purchase the annuity and the sum of monthly payments already made will be paid to the beneficiary(ies) designated by the participant (or by the joint annuitant, where applicable). This feature can be combined with any type of annuity.

(2) *Ten-year certain.* This feature provides that, if the participant dies before annuity payments have been made for 10 years (120 payments), monthly payments will be made to the beneficiary(ies) until 120 payments have been made. This feature can be combined with any single life annuity, but cannot be combined with a joint life annuity.

(g) Once an annuity has been purchased, the type of annuity, the annuity features, and the identity of the joint annuitant cannot be changed, and the annuity cannot be terminated.

§ 1650.15 Abandonment of inactive accounts.

A separated participant must select a full withdrawal option by the time he or she reaches age 70½. If the participant does not do so and the TSP is unable to locate the participant, the inactive account will be declared abandoned in accordance with § 1650.16.

§ 1650.16 Required withdrawal date.

(a) A participant must withdraw his or her account under § 1650.12, or begin receiving payments under §§ 1650.13 or 1650.14, by April 1 of the year following the year in which the participant reaches 70½ years of age or separates from Government service, whichever is later.

(b) For account balances of $200 or more, a separated participant may elect to withdraw his or her account or to begin receiving payments before the date described in paragraph (a) of this section, but is not required to do so.

(c) In the event that a participant does not withdraw his or her account or begin receiving payments in accordance with paragraph (a) of this section, the Board will transfer all of the funds in the participant's account not already invested in the Government Securities Investment (G) Fund to that fund. A notice of this action will be sent to the participant with a warning that his or her account will be declared abandoned and forfeited unless the participant comes into compliance with paragraph (a) by a date certain specified in the notice.

(d) If the participant does not take the appropriate withdrawal action described in paragraph (c) of this section, the Board will purchase an annuity for the participant after the following steps have been taken:

(1) The account has been declared abandoned and the funds in the account have been forfeited;

(2) A notice of this action has been sent to the participant;

(3) The participant reclaims the account balance that was abandoned, but decides against a withdrawal pursuant to §§ 1650.12 or 1650.13; and

(4) The participant provides the information that the Board needs to purchase an annuity pursuant to § 1650.14.

§ 1650.17 Changes and cancellation of a withdrawal request.

(a) *Before processing.* A pending withdrawal request can be cancelled if the cancellation is processed before the TSP processes the withdrawal request. However, the TSP processes withdrawal requests each business day. Withdrawal requests that are entered into the record keeping system by 11:00 a.m. central time ordinarily will ordinarily be processed that night; those entered after 11:00 a.m. central time will be processed the next business day. Consequently, a cancellation request must be received and entered into the system before the cut-off for the day the withdrawal request is submitted for processing in order to be effective to cancel the withdrawal.

(b) *After processing.* A withdrawal election cannot be changed or cancelled after the withdrawal request has been processed. Consequently, funds disbursed cannot be returned to the TSP record keeper.

(c) *Change in monthly payments.* If a participant is receiving a series of monthly payments, the participant can change at any time: His or her withdrawal election to request a final single payment, the address to which the payments are mailed, whether or not a payment will be transferred (if permitted) and the portion to be transferred, the method by which direct payments to the participant are being sent (EFT or check), the identity of the financial institution to which payments are transferred or sent by EFT, or the identity of the EFT account. Once a year, during a period determined by the Executive Director, the participant may also elect to change the payment amount or to change from a monthly payment based on life expectancy to a final payment amount.

Subpart C—Procedures for Post-Employment Withdrawals

§ 1650.21 Information provided by employing agency.

(a) *Information to be provided to the TSP.* When a TSP participant separates from Government service, his or her employing agency must report the separation and the date of separation to the TSP record keeper. Until the TSP record keeper receives this information from the employing agency, it will not pay a post-employment withdrawal.

(b) *Information to be provided to the participant.* When a TSP participant separates from Government service, his or her employing agency must furnish the participant with information regarding the participant's withdrawal options (*e.g.*, the withdrawal booklet and information about the TSP Web site). The employing agency is also responsible for counseling participants concerning TSP withdrawal options.

§ 1650.22 Accounts of $200 or more.

A participant whose account balance is $200 or more must submit a properly completed withdrawal election to request a post-employment withdrawal of his or her account balance.

§ 1650.23 Accounts of less than $200.

Upon receiving information from the employing agency that a participant has been separated for more than 31 days and that any outstanding loans have been closed, the TSP record keeper will send the participant a check for the entire amount of his or her account balance if the account balance is $5.00 or more but less than $200. The participant may not elect to leave this amount in the TSP, nor will the TSP transfer this amount to an eligible employer plan or traditional IRA, or pay it by EFT. However, the participant may elect to roll over this payment into an eligible employer plan or traditional IRA.

§ 1650.24 How to obtain a post-employment withdrawal.

To request a post-employment withdrawal under this subpart, a participant must submit to the TSP record keeper a properly completed post-employment withdrawal request Form TSP–70 or Form TSP–U–70, or request the withdrawal on the TSP Web site. (A participant's ability to complete a post-employment withdrawal on the Web will depend on his or her

retirement system coverage, withdrawal election, account balance, marital status, and whether or not the withdrawal will be transferred to an eligible employer plan or traditional IRA.)

§ 1650.25 Taxes related to post-employment withdrawals.

(a) When a payment is made directly to a participant from the TSP after the participant has separated from Government service, the money is subject to Federal income tax withholding (except contributions from pay subject to the combat zone tax exclusion). However, a participant does not pay taxes on money that the TSP transfers directly to (or that the participant rolls over to) an eligible employer plan or traditional IRA until the money is withdrawn from the plan or IRA. In addition, any portion of a participant's TSP account that is used to purchase an annuity is not taxed at the time the annuity is purchased; monthly annuity payments are taxable income in the year in which they are paid.

(b) A participant may request that the TSP transfer directly to an eligible employer plan or traditional IRA all or part of any withdrawal that is an ''eligible rollover distribution'' under the Internal Revenue Code. A withdrawal that is not an eligible rollover distribution cannot be transferred to an eligible employer plan or traditional IRA. If an eligible rollover distribution is not transferred, it is subject to mandatory 20 percent withholding.

(c) A traditional IRA or an eligible employer plan that can accept a transfer must be an IRA or a plan maintained in the United States, which means one of the 50 States or the District of Columbia.

(d) The following TSP withdrawal methods are considered eligible rollover distributions under the Internal Revenue Code, 26 U.S.C. 402(c)(4):

(1) A single payment, as described in § 1650.12;

(2) Monthly payments, as described in § 1650.13, where payments are expected to last less than 10 years at the time they begin. This means that if the participant elects a monthly payment amount, that amount, when divided into the participant's account balance at the time of the first payment, must yield a number less than 120. If the participant elects to change the payment amount after payments begin, future payments may not continue to qualify as eligible rollover distributions if they do not also meet the requirements of this section; and

(3) A final single payment, as described in § 1650.13(c).

(e) The following withdrawal methods are not eligible rollover distributions:

(1) An annuity purchased by the TSP;

(2) Monthly payments that do not meet the criteria set forth in paragraph (d)(2) of this section;

(3) A minimum distribution payment or any portion of a payment which represents a minimum distribution;

(4) A plan loan that is deemed to be a taxable distribution because of default; and

(5) A return of excess elective deferrals.

Subpart D—In-Service Withdrawals

§ 1650.31 Age-based withdrawals.

(a) A participant who has reached age 59½ and who has not separated from Government employment is eligible to withdraw all or a portion of his or her vested TSP account balance in a single payment. The amount of an age-based withdrawal request must be at least $1,000, unless the withdrawal request is for the entire vested account balance.

(b) An age-based withdrawal is an eligible rollover distribution, so a participant may request that the TSP transfer all or a portion of the withdrawal to a tradition IRA or an eligible employer plan.

(c) A participant is permitted only one age-based withdrawal for an account.

(d) A participant who makes an age-based withdrawal is not eligible to make a partial withdrawal after separating from Government service.

§ 1650.32 Financial hardship withdrawals.

(a) A participant who has not separated from Government employment and who can certify that he or she has a financial hardship is eligible to withdraw all or a portion of his or her own contributions to the TSP (and their attributable earnings) in a single payment to meet certain specified financial obligations. The amount of a financial hardship withdrawal request must be at least $1,000.

(b) To be eligible for a financial hardship withdrawal, a participant must have a financial need that results from at least one of the following four conditions:

(1) The participant's monthly cash flow is negative (*i.e.*, the participant's income is less than his or her monthly expenses on a recurring basis);

(2) The participant has incurred medical expenses as a result of a medical condition, illness, or injury to the participant, the participant's spouse, or the participant's dependents. Generally, eligible expenses are those that would be eligible for deduction as medical expenses for Federal income tax purposes. Eligible medical expenses include the cost of household improvements required as a result of a medical condition, illness or injury. Household improvements are structural improvements to the participant's living quarters or the installation of special equipment that is necessary to accommodate the circumstances of the incapacitated person.

(3) The participant must have paid the cost of repair or replacement resulting from a personal casualty loss that would be eligible for deduction for Federal income tax purposes, but without regard to the IRS income limitations on deductibility, fair market value of the property, or number of events. Personal casualty loss includes damage, destruction, or loss of property resulting from a sudden, unexpected, or unusual event, such as an earthquake, hurricane, tornado, flood, storm, fire, or theft.

(4) The participant must have paid attorney fees and court costs associated with separation or divorce. Court-ordered payments to a spouse or former spouse and child support payments are not allowed, nor are costs of obtaining prepaid legal services or other coverage for legal services.

(c) When determining financial hardship needs, a participant cannot use any expenses that are already paid or are reimbursable to the participant by insurance or otherwise.

(d) The amount of a participant's financial hardship withdrawal cannot exceed the smallest of the following:

(1) The amount requested; or

(2) The amount in the participant's account that is equal to his or her own contributions and attributable earnings.

(e) The participant must certify that he or he has a financial hardship as described on the hardship withdrawal form, and that the dollar amount of the withdrawal request does not exceed the actual amount of the financial hardship.

(f) A participant is not eligible for an in-service hardship withdrawal during the time he or she has pending a petition in bankruptcy under Chapter 13 of the Bankruptcy Code (11 U.S.C. chapter 13).

§ 1650.33 Contributing to the TSP after an in-service withdrawal.

(a) A participant's TSP contribution election will not be affected by an age-based in-service withdrawal; therefore, his or her TSP contributions will continue without interruption.

(b) A participant who obtains a financial hardship in-service withdrawal may not contribute to the TSP for a period of six months after the withdrawal is processed. Therefore, the participant's employing agency will

discontinue his or her contributions (and any applicable agency matching contributions) for six months after the agency is notified by the TSP; in the case of a FERS participant, agency automatic (1%) contributions will continue. A participant whose TSP contributions are discontinued by his or her agency after a financial hardship withdrawal can resume contributions any time after expiration of the six-month period by submitting a new TSP contribution election. Contributions will not resume automatically.

§ 1650.34 Uniqueness of loans and withdrawals.

An outstanding TSP loan cannot be converted into an in-service withdrawal or vice versa. Funds distributed as an in-service withdrawal cannot be returned or repaid.

Subpart E—Procedures for In-Service Withdrawals

§ 1650.41 How to obtain an age-based withdrawal.

To request an age-based in-service withdrawal, a participant must submit to the TSP record keeper a properly completed age-based withdrawal request, Form TSP–75 or TSP–U–75, or use the TSP Web site to initiate a request. A participant's ability to complete an age-based withdrawal on the Web will depend on his or her retirement system coverage, marital status, and whether or not part or all of the withdrawal will be transferred to an eligible employer plan or traditional IRA.

§ 1650.42 How to obtain a financial hardship withdrawal.

(a) To request a financial hardship in-service withdrawal, a participant must submit to the TSP Service Office a properly completed financial hardship withdrawal form, Form TSP–76 or Form TSP–U–76, or use the TSP Web site to initiate a request. A participant's ability to complete a financial hardship withdrawal on the Web will depend on his or her retirement system coverage and marital status.

(b) There is no limit on the number of financial hardship withdrawals a participant can make; however, the TSP will not accept a financial hardship withdrawal request for a period of six months after a financial hardship disbursement is made.

§ 1650.43 Taxes related to in-service withdrawals.

(a) When an in-service withdrawal is paid directly from the TSP to a participant, the money is taxable income in the year in which the payment is made (except contributions from pay subject to the combat zone tax exclusion). However, a participant does not pay taxes on an age-based withdrawal that the TSP transfers directly or the participant rolls over to a traditional IRA or an eligible employer plan until the money is withdrawn.

(b) An age-based in-service withdrawal from the TSP is an eligible rollover distribution, and a participant may request the TSP to transfer all or a portion of an age-based in-service withdrawal to a traditional IRA or an eligible employer plan, consistent with § 1650.25. If the withdrawal is not transferred, it is subject to mandatory 20 percent withholding. The participant may increase the amount of withholding by submitting IRS Form W–4P, Withholding Certificate for Pension or Annuity Payments, to the TSP with the withdrawal request.

(c) A financial hardship in-service withdrawal from the TSP is not an eligible rollover distribution, and a participant therefore may not request the TSP to transfer a financial hardship in-service withdrawal to a traditional IRA or an eligible employer plan. A financial hardship in-service withdrawal is subject to 10 percent withholding. The withholding is not mandatory; the participant may either avoid the withholding or increase the amount of withholding by submitting IRS Form W–4P, Withholding Certificate for Pension or Annuity Payments, to the TSP with the withdrawal request.

Subpart F—[Reserved]

Subpart G—Spousal Rights

§ 1650.61 Spousal rights applicable to post-employment withdrawals.

(a) The spousal rights described in this section apply to full post-employment withdrawals when the married participant's vested TSP account balance exceeds $3,500, and to partial post-employment withdrawals without regard to the amount of the participant's account balance.

(b) The spouse of a CSRS participant is entitled to notice when the participant applies for a post-employment withdrawal, unless the participant was granted an exception under § 1650.64 to the spousal notification requirement within 90 days of the date the withdrawal request is processed by the TSP. The participant must provide the TSP record keeper with the spouse's correct address. The TSP record keeper will send the required notice by first class mail to the spouse at the most recent address provided by the participant.

(c) The spouse of a FERS or uniformed services participant has a right to a joint and survivor annuity with a 50 percent survivor benefit, level payments, and no cash refund based on the participant's entire account balance when the participant elects a full post-employment withdrawal. The participant may make a different withdrawal election only if his or her spouse waives the right to this annuity.

(1) To show that the spouse has waived the right to this annuity, the participant must submit to the TSP record keeper a properly completed withdrawal request form, signed by his or her spouse in the presence of a notary, unless the TSP granted the participant an exception under § 1650.65 to the spousal notification requirement within 90 days of the date the withdrawal form is processed by the TSP. If the TSP granted the participant an exception to the signature requirement, the participant should enclose a copy of the TSP's approval letter with the withdrawal form.

(2) Because a partial post-employment withdrawal will diminish the amount in the account which is available for a joint and survivor annuity, a spouse's consent is required before a partial withdrawal will be approved, regardless of the amount to be withdrawn.

(3) Both a spouse's waiver of a joint and survivor annuity and a spouse's consent to a partial withdrawal must be properly notarized.

(4) The spouse's waiver or consent is irrevocable for that withdrawal once the TSP record keeper has received it.

§ 1650.62 Spousal rights applicable to in-service withdrawals.

(a) The spousal rights described in this section apply to all in-service withdrawals and do not depend on the amount of the participant's vested account balance or the amount requested for withdrawal.

(b) The spouse of a CSRS participant is entitled to notice when the participant applies for an in-service withdrawal, unless the participant was granted an exception under § 1650.64 to the spousal notification requirement within 90 days of the date on which the withdrawal request is processed by the TSP. If the TSP granted the participant an exception to the notice requirement, the participant should enclose a copy of the TSP's approval letter with the withdrawal form. The participant must provide the TSP record keeper with the spouse's correct address. The TSP record keeper will send the required notice by first class mail to the spouse

at the most recent address provided by the participant.

(c) A participant who is covered by FERS or who is a member of the uniformed services must obtain the consent of his or her spouse before obtaining an in-service withdrawal, unless the participant was granted an exception under § 1650.65 to the signature requirement within 90 days of the date the withdrawal form is processed by the TSP. To show the spouse's consent, a participant must submit to the TSP record keeper a properly completed withdrawal request form, signed by his or her spouse in the presence of a notary. Once a form containing the spouse's consent has been submitted to the TSP record keeper, the spouse's consent is irrevocable for that withdrawal.

§ 1650.63 Executive Director's exception to the spousal notification requirement.

(a) Whenever this subpart requires the Executive Director to give notice of an action to the spouse of a CSRS participant, an exception to this requirement may be granted if the participant establishes to the satisfaction of the Executive Director that the spouse's whereabouts cannot be determined. A request for an exception to the notification requirement based on unknown whereabouts must be submitted to the Executive Director on Form TSP–16 or Form TSP–U–16, Exception to Spousal Requirements, accompanied by one of the following:

(1) A court order stating that the spouse's whereabouts cannot be determined;

(2) A police or governmental agency determination, signed by the appropriate department or division head, which states that the spouse's whereabouts cannot be determined; or

(3) Statements by the participant and two other persons, which meet the following requirements:

(i) The participant's statement must give the full name of the spouse, declare the participant's inability to locate the spouse, state the last time the spouse's location was known, explain why the spouse's location is not known currently, and describe the good faith efforts the participant has made to locate the spouse in the 90 days before the request for an exception was received by the TSP. Examples of attempting to locate the spouse include, but are not limited to, checking with relatives and mutual friends or using telephone directories and directory assistance for the city of the spouse's last known address. Negative statements, such as, ''I have not seen nor heard from him,'' or ''I have not had contact with her,'' are not sufficient.

(ii) The statements from two other persons must support the participant's statement that he or she does not know the spouse's whereabouts, and substantiate the participant's description of the efforts he or she made to locate the spouse, including the dates the participant made those efforts.

(iii) All statements must be signed and dated and must include the following certification: ''I understand that a false statement or willful misrepresentation is punishable under Federal law (18 U.S.C. 1001) by a fine or imprisonment or both.''.

(b) A withdrawal election will be processed within 90 days of an approved exception so long as the spouse named on the form is the spouse for whom the exception has been approved. The spouse's SSN must be included on the withdrawal request.

(c) The TSP, in its discretion, may require a participant to provide additional information before granting a waiver. The TSP may use any of the information provided to conduct its own search for the spouse.

§ 1650.64 Executive Director's exception to the spousal consent requirement.

(a) Whenever this subpart requires the consent of a spouse of a FERS or uniformed services participant to a loan or withdrawal or a waiver of the right to a survivor annuity, an exception to this requirement may be granted if the participant establishes to the satisfaction of the Executive Director that:

(1) The spouse's whereabouts cannot be determined in accordance with the provisions of § 1650.64; or

(2) Due to exceptional circumstances, requiring the spouse's signature would be inappropriate.

(i) An exception to the requirement for a spouse's signature may be granted based on exceptional circumstances only when the participant presents a court order or government agency determination that contains a finding or a recitation of exceptional circumstances regarding the spouse which would warrant an exception to the signature requirement.

(ii) Exceptional circumstances are narrowly construed, but are exemplified by a court order or government agency determination that:

(A) Indicates that the spouse and the participant have been maintaining separate residences with no financial relationship for three or more years;

(B) Indicates that the spouse abandoned the participant, but for religious or similarly compelling reasons, the parties chose not to divorce; or

(C) Expressly states that the participant may obtain a loan from his or her TSP account or withdraw his or her Thrift Savings Plan account balance notwithstanding the absence of the spouse's signature.

(b) A post-employment withdrawal election or an in-service withdrawal request processed within 90 days of an approved exception will be accepted by the TSP so long as the spouse named on the form is the spouse for whom the exception has been approved. The spouse's SSN must be included on the withdrawal request form.

PART 1651—DEATH BENEFITS

■ 39. The authority citation for part 1651 is revised to read as follows:

Authority: 5 U.S.C. 8424(d), 8432(j), 8433(e), 8435(c)(2), 8474(b)(5) and 8474(c)(1).

■ 40. Section 1651.1 is revised to read as follows:

§ 1651.1 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) As used in this subpart:

Death benefit means the portion of a deceased participant's account that is payable under FERSA's order of precedence.

Domicile means the participant's place of residence for purposes of state income tax liability.

Order of precedence means the priority of entitlement to a TSP death benefit specified in 5 U.S.C. 8424(d).

TIN means a taxpayer identification number. A TIN may be a Social Security number (SSN), an employer identification number (EIN), or an individual taxpayer identification number (ITIN).

■ 41. Section 1651.2 is revised to read as follows:

§ 1651.2 Entitlement to funds in a deceased participant's account.

(a) *Death benefits.* Except as provided in paragraph (b) of this section, the account balance of a deceased participant will be paid as a death benefit to the individual or individuals surviving the participant, in the following order of precedence:

(1) To the beneficiary or beneficiaries designated by the participant on the TSP designation of beneficiary form that has been properly completed and filed in accordance with § 1651.3;

(2) If there is no designated beneficiary, to the spouse of the participant in accordance with § 1651.5;

(3) If there are no beneficiaries or persons as described in paragraphs

(a)(1) and (a)(2) of this section, to the child or children of the participant and descendants of deceased children by representation in accordance with § 1651.6;

(4) If there are no beneficiaries or persons as described in paragraphs (a)(1) through (a)(3) of this section, to the parents of the participant in equal shares or entirely to the surviving parent in accordance with § 1651.7;

(5) If there are no beneficiaries or persons as described in paragraphs (a)(1) through (a)(4) of this section, to the duly appointed executor or administrator of the estate of the participant in accordance with § 1651.8; or

(6) If there are no beneficiaries or persons as described in paragraphs (a)(1) through (a)(5) of this section, to the next of kin of the participant who is or are entitled under the laws of the state of the participant's domicile on the date of the participant's death in accordance with § 1651.9.

(b) *TSP withdrawals.* If the TSP processes a notice that a participant has died, it will cancel any pending request by the participant to withdraw his or her account. The TSP will also cancel an annuity purchase made on or after the participant's date of death but before annuity payments have begun, and the annuity vendor will return the funds to the TSP. The funds designated by the participant for the withdrawal will be paid as a death benefit in accordance with paragraph (a) of this section, unless the participant elected to withdrawal his or her account in the form of an annuity, in which case the funds designated for the purchase of the annuity will be paid as described below:

(1) If the participant requested a single life annuity with no cash refund or 10-year certain feature, the TSP will pay the funds as a death benefit in accordance with paragraph (a) of this section.

(2) If the participant requested a single life annuity with a cash refund or 10-year certain feature, the TSP will pay the funds:

(i) As a death benefit to the beneficiary or beneficiaries designated by the participant on the annuity portion of a withdrawal request, Form TSP–70 or Form TSP–U–70; or

(ii) As a death benefit in accordance with paragraph (a) of this section if no beneficiary designated on the withdrawal request survives the participant.

(3) If the participant requested a joint life annuity without additional features, the TSP will pay the funds:

(i) As a death benefit to the joint life annuitant if he or she survives the participant; or

(ii) As a death benefit in accordance with paragraph (a) of this section if the joint life annuitant does not survive the participant.

(4) If the participant requested a joint life annuity with a cash refund or 10-year certain feature, the TSP will pay the funds:

(i) As a death benefit to the joint life annuitant if he or she survives the participant;

(ii) As a death benefit to the beneficiary or beneficiaries designated by the participant on the annuity portion of Form TSP–70 or Form TSP–U–70, if the joint life annuitant does not survive the participant; or

(iii) As a death benefit in accordance with paragraph (a) of this section if neither the joint life annuitant nor any designated beneficiary survives the participant.

(5) If a participant dies after an annuity has been purchased, the annuity vendor will make or stop the payments in accordance with the annuity method selected.

(c) *TSP loans.* If the TSP processes a notice that a participant has died, any pending loan disbursement will be cancelled and the funds designated for the loan will be distributed as a death benefit in accordance with paragraph (a) of this section. If a TSP loan has been disbursed, but the check has not been negotiated (or an electronic funds transfer (EFT) has been returned), the loan proceeds will be used to pay off the loan. If the loan check has been negotiated (or the EFT has been processed), the funds cannot be returned to the TSP and the TSP will declare the loan balance as a taxable distribution in accordance with 5 CFR 1655.15.

(d) *Investment of a TSP account upon notice of death.* If a participant dies with any portion of his or her TSP account in an investment fund other than the G Fund, the TSP will transfer the entire account into the G Fund after it processes a notice that the participant has died, or a death code indicating the participant's death from the participant's agency or service. The account will accrue earnings at the G Fund rate in accordance with 5 CFR part 1645 until it is paid under this part.

■ 42. Section 1651.14 is amended by revising paragraph (f), and by adding a new paragraph (g) to read as follows:

§ 1651.14 How payment is made.

* * * * *

(f) *Payment to trust.* If payment is to a trust, the payment will be made payable to the trust and mailed in care of the trustee. A TIN must be provided for the trust.

(g) If a death benefit payment is returned as undeliverable, the TSP record keeper will attempt to locate the beneficiary by writing to his or her TSP database address. If the beneficiary does not respond within 60 days, the TSP will forfeit the death benefit payment to the Plan. The beneficiary can claim the forfeited funds, although they will not be credited with TSP investment fund returns.

■ 43. Section 1651.17 is revised to read as follows:

§ 1651.17 Disclaimer of benefits.

(a) *Right to disclaim.* The beneficiary of a TSP account may disclaim his or her right to receive all or part of a TSP death benefit. If the disclaimant is a minor, the parent or guardian of the minor must sign the disclaimer.

(b) *Valid disclaimer.* The disclaimer must expressly state that the beneficiary is disclaiming his or her right to receive either all or a stated percentage of the death benefit payable from the TSP account of the named participant and must be:

(1) Submitted in writing;

(2) Signed by the person (or legal representative) disclaiming the benefit; and

(3) Received before the TSP pays the death benefit.

(c) *Invalid disclaimer.* A disclaimer is invalid if it is revocable or directs to whom the disclaimed benefit should be paid.

(d) *Disclaimer effect.* The disclaimed share will be paid as though the beneficiary predeceased the participant, according to the rules set forth in § 1651.10.

■ 44. Part 1653 is revised to read as follows:

PART 1653—COURT ORDERS AND LEGAL PROCESSES AFFECTING THRIFT SAVINGS PLAN ACCOUNTS

Subpart A—Retirement Benefits Court Orders

Sec.

1653.1 Definitions.
1653.2 Qualifying retirement benefits court orders.
1653.3 Processing retirement benefits court orders.
1653.4 Calculating entitlements.
1653.5 Payment.

Subpart B—Legal Process for the Enforcement of a Participant's Legal Obligations to Pay Child Support or Alimony Currently

1653.11 Definitions.
1653.12 Qualifying legal processes.

1653.13 Processing legal processes.
1654.14 Calculating entitlements.
1653.15 Payment.

Subpart C—Child Abuse Court Orders

1653.21 Definitions.
1653.22 Purpose.
1653.23 Processing and payment.

Authority: 5 U.S.C. 8435, 8436(b), 8437(e)(3), 8467, 8474(b)(5) and 8474(c)(1).

Subpart A—Retirement Benefits Court Orders

§ 1653.1 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) As used in this subpart:

Court means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court as defined by 25 U.S.C. 1301(3).

Effective date of a court order means the date it was entered by the clerk of the court or, if the order does not show a date entered, the date it was filed by the clerk of the court or, if the order does not contain a date entered or a date filed, the date it was signed by the judge.

Retirement benefits court order or *order* means a court decree of divorce, annulment or legal separation, or a court order or court-approved property settlement agreement incident to such a decree. Orders may be issued at any stage of a divorce, annulment, or legal separation proceeding.

§ 1653.2 Qualifying retirement benefits court orders.

(a) To be qualifying, and thus enforceable against the TSP, a retirement benefits court order must meet the following requirements:

(1) The order must expressly relate to the Thrift Savings Plan account of a TSP participant. This means that:

(i) The order must expressly refer to the ''Thrift Savings Plan'' or describe the TSP in such a way that it cannot be confused with other Federal Government retirement benefits or non-Federal retirement benefits;

(ii) The order must be written in terms appropriate to a defined contribution plan rather than a defined benefit plan. For example, it should generally refer to the participant's TSP account or TSP account balance rather than a benefit formula or the participant's eventual benefits; and

(iii) If the participant has a civilian TSP account and a uniformed services TSP account, the order must expressly identify the account to which it relates.

(2) The order must either require the TSP to freeze the participant's account to preserve the *status quo* pending final resolution of the parties' rights to the participant's TSP account, or to make a payment from the participant's account to a permissible payee.

(3) If the order requires a payment from the participant's account, the award must be for:

(i) A specific dollar amount;

(ii) A stated percentage or fraction of the account;

(iii) A portion of the account to be calculated by applying a formula that yields a mathematically possible result. All of the variables in the formula must have values that are readily ascertainable from the face of the order or from TSP records; or

(iv) A survivor annuity as provided in 5 U.S.C. 8435(d).

(4) A court order can only require a payment to:

(i) Current or former spouses of the participant;

(ii) Attorneys of current or former spouses of a participant (as fees);

(iii) Dependents of the participant; and

(iv) Attorneys of dependents of the participant (as fees).

(b) The following retirement benefits court orders are not qualifying and thus are not enforceable against the TSP:

(1) An order relating to a TSP account that has been closed;

(2) An order relating to a TSP account that contains only nonvested money, unless the money will become vested within 30 days of the date the TSP receives the order if the participant were to remain in Federal service;

(3) An order requiring the return to the TSP of money that was properly paid pursuant to an earlier court order;

(4) An order requiring the TSP to make a payment in the future, unless the present value of the payee's entitlement can be calculated, in which case the TSP will make the payment currently; and

(5) An order that does not specify the account to which the order applies, if the participant has both a civilian TSP account and a uniformed services TSP account.

§ 1653.3 Processing retirement benefits court orders.

(a) The payment of a retirement benefits court order from the TSP is governed solely by FERSA and by the terms of this subpart. The TSP will honor retirement benefits court orders properly issued by a court (as defined in § 1653.1). However, those courts have no jurisdiction over the TSP and the TSP cannot be made a party to the underlying domestic relations proceedings.

(b) The TSP will review a retirement benefits court order to determine whether it is enforceable against the TSP only after the TSP has received a complete copy of the document. Receipt by an employing agency or any other agency of the Government does not constitute receipt by the TSP. Retirement benefits court orders should be submitted to the TSP record keeper at the following address: Thrift Savings Plan Service Office, National Finance Center, P.O. Box 61500, New Orleans, Louisiana, 70161–1500. Receipt by the TSP record keeper is considered receipt by the TSP. To be complete, a court order must contain all pages and attachments; it must also provide (or be accompanied by a document that provides):

(1) The participant's Social Security number (SSN);

(2) The name and last known mailing address of each payee covered by the order; and

(3) The payee's SSN and state of legal residence if he or she is the current or former spouse of the participant.

(c) As soon as practicable after the TSP receives a document that purports to be a qualifying retirement benefits court order, whether or not complete, the participant's account will be frozen. After the account is frozen, no withdrawal or loan disbursements (other than a required minimum distribution pursuant to section 401(a)(9) of the Internal Revenue Code, 26 U.S.C. 401(a)(9)) will be allowed until the account is unfrozen. All other account activity will be permitted.

(d) The following documents do not purport to be qualifying retirement benefits court orders, and accounts of participants to whom such orders relate will not be frozen:

(1) A document that does not indicate on its face (or is not accompanied by a document that establishes) that it has been issued or approved by a court;

(2) A court order relating to a TSP account that has been closed;

(3) A court order dated before June 6, 1986;

(4) A court order that does not award all or any part of the TSP account to someone other than the participant; and

(5) A court order that does not mention retirement benefits.

(e) After the participant's account is frozen, the TSP will review the document further to determine if it is complete; if the document is not complete, the TSP will request a complete document. If a complete copy is not received within 30 days of that request, the account will be unfrozen and no further action will be taken with respect to the document.

(f) The TSP will review a complete copy of an order to determine whether it is a qualifying retirement benefits court order as described in § 1653.2. The TSP will mail a decision letter to all parties containing the following information:

(1) A determination regarding whether the court order is qualifying;

(2) A statement of the applicable statutes and regulations;

(3) An explanation of the effect the court order has on the participant's TSP account; and

(4) If the qualifying order requires payment, the letter will provide:

(i) An explanation of how the payment will be calculated and an estimated amount of payment;

(ii) The anticipated date of payment;

(iii) Tax information and income tax withholding forms to the person responsible for paying Federal income tax on the payment;

(iv) Information and the form needed to transfer the payment to an eligible employer plan or traditional IRA (if the payee is the current or former spouse of the participant); and

(v) Information and the form needed to receive the payment through an electronic funds transfer (EFT).

(g) The TSP decision letter is a final determination of the parties' rights in the account. There is no administrative appeal from the TSP decision.

(h) An account frozen under this section will be unfrozen as follows:

(1) If the account was frozen upon receipt of an incomplete order, the account will be unfrozen if a complete order is not received within 30 days of the date of the request described in paragraph (e) of this section;

(2) If the account was frozen in response to an order issued to preserve the *status quo* pending final resolution of the parties' rights to the participant's TSP account, the account will be unfrozen if the TSP receives a court order that vacates or supersedes the previous order (unless the order vacating or superseding the order itself qualifies to place a freeze on the account). A court order that purports to require a payment from the TSP supersedes an order issued to preserve the *status quo,* even if it does not qualify to require a payment from the TSP;

(3) If the account was frozen in response to an order purporting to require a payment from the TSP, the freeze will be lifted:

(i) Once payment is made, if the court order is qualifying; or

(ii) Forty-five (45) days after the date of the TSP decision letter if the court order is not qualifying. The 45-day period will be terminated, and the account will be unfrozen, if both parties submit to the TSP a written request for such a termination.

(i) The TSP will hold in abeyance the processing of a court-ordered payment if the TSP is notified in writing that the underlying court order has been appealed, and that the effect of the filing of the appeal is to stay the enforceability of the order.

(1) In the notification, the TSP must be provided with proper documentation of the appeal and citations to legal authority, which address the effect of the appeal on the enforceability of the underlying court order.

(i) If the TSP receives proper documentation and citations to legal authority which demonstrate that the underlying court order is not enforceable, the TSP will inform the parties that the payment will not occur until resolution of the appeal, and the account will remain frozen for loans and withdrawals.

(ii) In the absence of proper documentation and citations to legal authority, the TSP will presume that the provisions relating to the TSP in the court order remain valid and will proceed with the payment process.

(2) The TSP must be notified in writing of the disposition of the appeal before the freeze will be removed from the participant's account or a payment will be made. The notification must include a complete copy of an order from the appellate court explaining the effect of the appeal on the participant's account.

(j) Multiple qualifying court orders relating to the same TSP account and received by the TSP will be processed as follows:

(1) If the orders make awards to the same payee or payees and do not indicate that the awards are cumulative, the TSP will only honor the order bearing the latest effective date.

(2) If the orders relate to different former spouses of the participant and award survivor annuities, the TSP will honor them in the order of their effective dates.

(3) If the orders relate to different payees and award fixed dollar amounts, percentages or fractions of an account, or portions of an account calculated by the application of formulae, the orders will be honored:

(i) In the order of their receipt by the TSP, if received by the TSP on different days; or

(ii) In the order of their effective dates, if received by the TSP on the same day.

(4) In all other cases, the TSP will honor multiple qualifying court orders relating to the same TSP account in the order of their receipt by the TSP.

§ 1653.4 Calculating entitlements.

(a) For purposes of computing the amount of a payee's entitlement under this section, a participant's TSP account balance will include any loan balance outstanding as of the date used for calculating the payee's entitlement, unless the court order provides otherwise.

(b) If the court order awards a percentage or fraction of an account as of a specific date, the payee's entitlement will be calculated based on the account balance as of that date. If the date specified in the order is not a business day, the TSP will use the participant's account balance as of the last preceding business day.

(c) If the court order awards a percentage or fraction of an account but does not contain a specific date as of which to apply that percentage or fraction, the TSP will use the effective date of the order.

(d) If the court order awards a specific dollar amount, the payee's entitlement will be the lesser of:

(1) The dollar amount stated in the court order; or

(2) The vested account balance on the date of disbursement.

(e) If a court order describes a payee's entitlement in terms of a fixed dollar amount and a percentage or fraction of the account, the TSP will pay the fixed dollar amount, even if the percentage or fraction, when applied to the account balance, would yield a different result.

(f) The payee's entitlement will be credited with TSP investment earnings as described:

(1) The entitlement calculated under this section will not be credited with TSP investment earnings unless the court order specifically provides otherwise.

(2) If earnings are awarded and a rate is specified, the rate must be expressed as an annual percentage rate or as a *per diem* dollar amount added to the payee's entitlement.

(3) If earnings are awarded and the rate is not specified, the TSP will credit the payee's entitlement with the rate of return for the G Fund.

(4) Earnings at the G Fund rate will accrue on a monthly basis through May 31, 2003, beginning with the month following the entitlement date; thereafter, G Fund earnings will accrue on a daily basis, beginning with the business day following the date used for calculating the payee's entitlement (or beginning June 1, 2003, if interest or earnings commence before June 1, 2003)

and ending 2 business days before payment is made.

(g) The TSP will estimate the amount of a payee's entitlement when it prepares the court order decision letter and will recalculate the entitlement at the time of payment. The recalculation may differ from the initial estimation because:

(1) The estimation of the payee's entitlement includes both vested and nonvested amounts in the participant's account. If, at the time of payment, the nonvested portion of the account has not become vested, the recalculated entitlement will apply only to the participant's vested account balance;

(2) After the estimate of the payee's entitlement is prepared, the TSP may process account transactions that have an effective date on or before the date used to compute the payee's entitlement. Those transactions will be included when the payee's entitlement is recalculated at the time of payment; and

(3) The amount available for payment from the account may be reduced due to changes in share price (*i.e.*, investment losses).

§ 1653.5 Payment.

(a) Payment pursuant to a qualifying retirement benefits court order ordinarily will be made 60 days after the date of the TSP decision letter. This is intended to permit the payee sufficient time to consider decisions about tax withholding, payment by EFT, and transfer, if applicable, under paragraph (e) of this section. An earlier distribution may be made as follows:

(1) If the payee is the current or former spouse of the participant, the payee can request to receive the payment sooner than 60 days by making a tax withholding election, by requesting a payment by EFT, or by requesting a transfer described in paragraph (e)(1) of this section. The TSP decision letter will provide the forms a payee can use to request an earlier disbursement.

(2) If the payee is someone other than the current or former spouse of the participant, the participant can request a disbursement sooner than 60 days by making the tax withholding election described in paragraph (e)(2) of this section (on forms provided to the participant with the TSP decision letter).

(3) If the court order makes an award to multiple payees, a disbursement may be made earlier than 60 days only if requests for expedited payment are received from all of the payees.

(4) In no event will payment be made earlier than 31 days after the date of the TSP decision letter.

(b) In no case will payment exceed the participant's vested account balance, minus any outstanding loan balance.

(c) The entire amount of a court order payee's entitlement must be disbursed at one time. A series of payments will not be made, even if the court order provides for such a method of payment. A payment pursuant to a court order extinguishes all rights to any further payment under that order, even if the entire amount of the entitlement cannot be paid. Any further award must be contained in a separate court order.

(d) Payment will be made *pro rata* from all TSP investment funds in which the account is invested, based on the balance in each fund on the date payment is made, and from both tax-deferred and tax-exempt balances, if any. The TSP will not honor provisions of a court order that require payment to be made from specific investment funds or contribution sources. A court order may, however, specify a particular payment from the tax-exempt balance of a uniformed services TSP account.

(e) Payment will be made only to the person or persons specified in the court order.

(1) If payment is made to the current or former spouse of the participant, the distribution will be reported to the Internal Revenue Service (IRS) as income to the payee.

(i) A current or former spouse of a participant may request that the TSP transfer all or a portion of the payment to an eligible employer plan or traditional IRA. A retirement benefits court order cannot prevent the TSP from providing this transfer option to a current or former spouse of a participant.

(ii) Any amount that is not so transferred will be distributed to the payee. That distribution will be subject to mandatory Federal income tax withholding. The payee may elect to have an additional amount withheld by filing with the TSP the forms provided to the payee with the decision letter.

(iii) Any distribution directly to the payee will be made under the following rules:

(A) If the court order specifies a third-party mailing address for the payment, the TSP will mail to the address specified any portion of the payment that is not transferred to an eligible employer plan or traditional IRA. That portion will be disbursed in the form of a United States Treasury check made payable solely to the court order payee, and mailed in care of the third party addressee.

(B) If the court order does not specify a third party addressee, the payee can choose to receive the distribution by United States Treasury check or by electronic funds transfer (EFT) to a checking or savings account at a financial institution.

(2) If the payment is made to anyone other than the current or former spouse of the participant, the following rules apply:

(i) The payment is taxable to the participant and is subject to Federal income tax withholding. The participant can elect the amount to be withheld by filing with the TSP the forms provided to the participant with the decision letter. If the participant does not make a withholding election, the TSP will withhold 10 percent from the payment. The tax withholding will be taken from the payee's entitlement and the gross amount of the payment (*i.e.*, the net payment distributed to the payee plus the amount withheld from the payment for taxes) will be reported to the IRS as income to the participant.

(ii) The payment will be made under the same rules described in paragraph (e)(1)(iii) of this section.

(f) Payment will not be made jointly to two or more persons. If the court order requires payments to more than one person, the order must separately indicate the amount to be paid to each.

(g) If there are insufficient funds to pay each court order payee, payment will be made as follows:

(1) If the order specifies an order of precedence for the payments, the TSP will honor it.

(2) If the order does not specify an order of precedence for the payments, the TSP will pay a current or former spouse first, a dependent second, and an attorney third.

(h) If the payee dies before a payment is disbursed, payment will be made to the estate of the payee, unless otherwise specified by the court order. A distribution to the estate of a deceased court order payee will be reported as income to the decedent's estate. If the participant dies before payment is made, the order will be honored so long as it is submitted to the TSP before the TSP account has been closed.

(i) If the parties to a divorce or annulment have remarried each other, or a legal separation is terminated, a new court order will be required to prevent payment pursuant to a previously submitted qualifying retirement benefits court order.

(j) Payment to a person (including the estate of the payee) pursuant to a qualifying retirement benefits court order made in accordance with this subpart bars recovery by any other

person claiming entitlement to the payment.

(k) If a court ordered payment is returned as undeliverable, the TSP record keeper will attempt to locate the payee by writing to his or her TSP database address. If the payee does not respond within 60 days, the TSP will forfeit the funds to the Plan. The payee can claim the forfeited funds, although they will not be credited with TSP investment fund returns.

Subpart B—Legal Process for the Enforcement of a Participant's Legal Obligations To Pay Child Support or Alimony Currently

§ 1653.11 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1600.1.

(b) As used in this subpart:

Alimony means the payment of funds for the support and maintenance of a spouse or former spouse. Alimony includes separate maintenance, alimony *pendente lite,* maintenance, and spousal support. Alimony can also include attorney fees, interest, and court costs, but only if these items are expressly made recoverable by qualifying legal process, as described in § 1653.12.

Child support means payment of funds for the support and maintenance of a child or children of the participant. Child support includes payments to provide for health care, education, recreation, clothing, or to meet other specific needs of a child or children. Child support can also include attorney fees, interest, and court costs, but only if these items are expressly made recoverable by qualifying legal process, as described in § 1653.12.

Competent authority means a court or an administrative agency of competent jurisdiction in any State, territory or possession of the United States; a court or administrative agency of competent jurisdiction in any foreign country with which the United States has entered into an agreement that requires the United States to honor the process; or an authorized official pursuant to an order of such a court or an administrative agency of competent jurisdiction pursuant to state or local law.

Legal process means a writ, order, summons, or other similar process in the nature of a garnishment, which is brought to enforce a participant's legal obligations to pay child support or alimony currently.

§ 1653.12 Qualifying legal processes.

(a) The TSP will only honor the terms of a legal process that is qualifying under paragraph (b) of this section.

(b) A legal process must meet each of the following requirements to be considered qualifying:

(1) A competent authority must have issued the legal process;

(2) The legal process must expressly relate to the Thrift Savings Plan account of a TSP participant, as described in § 1653.2(a)(1);

(3) The legal process must require the TSP to:

(i) Pay a stated dollar amount from a participant's TSP account; or

(ii) Freeze the participant's account in anticipation of an order to pay from the account.

(c) The following legal processes are not qualifying:

(1) A legal process relating to a TSP account that has been closed;

(2) A legal process relating to a TSP account that contains only nonvested money, unless the money will become vested within 30 days of the date the TSP receives the order if the participant were to remain in Federal service;

(3) A legal process requiring the return to the TSP of money that was properly paid pursuant to an earlier legal process;

(4) A legal process requiring the TSP to make a payment in the future; and

(5) A legal process requiring a series of payments.

§ 1653.13 Processing legal processes.

(a) The payment of legal processes from the TSP is governed solely by the Federal Employees' Retirement System Act, 5 U.S.C. chapter 84, and by the terms of this subpart. Although the TSP will honor legal processes properly issued by a competent authority, those entities have no jurisdiction over the TSP and the TSP cannot be made a party to the underlying proceedings.

(b) The TSP will review a legal process to determine whether it is enforceable against the TSP only after the TSP has received a complete copy of the document. Receipt by an employing agency or any other agency of the Government does not constitute receipt by the TSP. Legal processes should be submitted to the TSP record keeper at the following address: Thrift Savings Plan Service Office, National Finance Center, P.O. Box 61500, New Orleans, LA 70161–1500. Receipt by the TSP record keeper is considered receipt by the TSP. To be complete, a legal process must contain all pages and attachments; it must also provide (or be accompanied by a document that provides):

(1) The participant's Social Security number (SSN);

(2) The name and last known mailing address of each payee covered under the order; and

(3) The SSN and state of legal residence of the payee if he or she if the current or former spouse of the participant.

(c) As soon as practicable after the TSP receives a document that purports to be a qualifying legal process, whether or not complete, the participant's account will be frozen. After the account is frozen, no withdrawal or loan disbursements will be allowed until the account is unfrozen. All other account activity will be permitted, including contributions, loan repayments, adjustments, contribution allocations and interfund transfers.

(d) The following documents will not be treated as purporting to be a qualifying legal processes, and accounts of participants to whom such orders relate will not be frozen:

(1) A document that does not indicate on its face (or accompany a document that establishes) that it has been issued by a competent authority;

(2) A legal process relating to a TSP account that has been closed; and

(3) A legal process that does not relate either to the TSP or to the participant's retirement benefits.

(e) After the participant's account is frozen, the TSP will review the document further to determine if it is complete; if the document is not complete, the TSP will request a complete document. If a complete copy is not received by the TSP within 30 days of that request, the account will be unfrozen and no further action will be taken with respect to the document.

(f) As soon as practicable after receipt of a complete copy of a legal process, the TSP will review it to determine whether it is a qualifying legal process as described in § 1653.12. The TSP will mail a decision letter to all parties containing the same information described at § 1653.3(f).

(g) The TSP decision letter is final. There is no administrative appeal from the TSP decision.

(h) An account frozen under this section will be unfrozen as follows:

(1) If a complete document has not been received within 30 days of the date of a request described in paragraph (e) of this section;

(2) If the account was frozen pursuant to a legal process requiring the TSP to freeze the participant's account in anticipation of an order to pay from the account, the account will be unfrozen if any one of the following events occurs:

(i) As soon as practicable after the TSP receives a complete copy of an order vacating or superseding the preliminary order (unless the order vacating or superseding the preliminary

order qualifies to place a freeze on the account);

(ii) Upon payment pursuant to the order to pay from the account, if the TSP determines that the order is qualifying; or

(iii) As soon as practicable after the TSP issues a decision letter informing the parties that the order to pay from the account is not a qualifying legal process;

(3) If the account was frozen after the TSP received a document that purports to be a legal process requiring payment from the participant's account, the account will be unfrozen:

(i) Upon payment pursuant to a qualifying legal process; or

(ii) As soon as practicable after the TSP informs the parties that the document is not a qualifying legal process.

(i) The TSP will hold in abeyance the processing of a payment required by legal process if the TSP is notified in writing that the legal process has been appealed, and that the effect of the filing of the appeal is to stay the enforceability of the legal process. The notification must be accompanied by the documentation and citations to legal authority described at § 1653.3(i).

(j) Multiple qualifying legal processes relating to the same TSP account and received by the TSP will be processed as follows:

(1) If the legal processes make awards to the same payee or payees and do not indicate that the awards are cumulative, the TSP will only honor the legal process bearing the latest effective date.

(2) If the legal processes relate to different payees, the legal process will be honored:

(i) In the order of their receipt by the TSP, if received by the TSP on different days; or

(ii) In the order of their effective dates, if received by the TSP on the same day.

§ 1653.14 Calculating entitlements.

A qualifying legal process can only require the payment of a specified dollar amount from the TSP. Payment pursuant to a qualifying legal process will be calculated in accordance with § 1653.4(a), (d), (f) and (g).

§ 1653.15 Payment.

Payment pursuant to a qualifying legal process will be made in accordance with § 1653.5.

Subpart C—Child Abuse Court Orders

§ 1653.21 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) As used in this subpart:

Child means an individual less than 18 years of age.

Judgment against a participant for physically, sexually, or emotionally abusing a child means any legal claim perfected through a final enforceable judgment which is based in whole or in part upon the physical, sexual, or emotional abuse of a child, whether or not that abuse is accompanied by other actionable wrongdoing, such as sexual exploitation or gross negligence.

§ 1653.22 Purpose.

Under 5 U.S.C. 8437(e)(3) and 8467(a)(2), the TSP will honor a court order or other similar process in the nature of a garnishment that is brought to enforce a judgment against a participant for physically, sexually, or emotionally abusing a child.

§ 1653.23 Processing and payment.

To the maximum extent consistent with sections 8437(e)(3) and 8467(a)(2), child abuse court orders will be processed by the TSP under the procedures described in subparts A and B of this part.

■ 45. Part 1655 is revised to read as follows:

PART 1655—LOAN PROGRAM

Sec.

1655.1 Definitions.
1655.2 Eligibility for loans.
1655.3 Information concerning the cost of a loan.
1655.4 Number of loans.
1655.5 Loan repayment period.
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Authority: 5 U.S.C. 8433(g) and 8474.

§ 1655.1 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) As used in this part:

Amortization means the reduction in a loan by periodic payments of principal and interest according to a schedule of payments.

Date of application means the day on which the TSP record keeper receives the loan application, either electronically on the TSP Web site or on Form TSP–20 or Form TSP–U–20.

General purpose loan means any TSP loan other than a loan for the purchase or construction of a primary residence.

Guaranteed funds means a cashier's check, money order, certified check (*i.e.*, a check certified by the financial institution on which it is drawn), cashier's draft, or treasurer's check from a credit union.

Loan issue date means the date on which the TSP record keeper disburses funds from the participant's account for the loan amount.

Loan repayment period means the time over which payments that are required to repay a loan in full are scheduled.

Principal or *principal amount* means the amount borrowed by a participant from his or her individual account, or, after reamortization, the amount financed.

Reamortization means the recalculation of periodic payments of principal and interest.

Residential loan means a TSP loan for the purchase or construction of a primary residence.

Taxable distribution means the amount of outstanding principal and interest on a loan which must be reported to the Internal Revenue Service as taxable income as a result of the failure of a participant to repay a loan in full, according to the terms of the loan agreement.

§ 1655.2 Eligibility for loans.

A participant who is eligible to contribute to the TSP and who is in pay status is eligible to apply for a loan from his or her TSP account. Only a participant who has at least $1,000 in employee contributions and attributable earnings in his or her account may receive a loan (subject to the other terms and conditions set forth in this part). A participant who is separated from Government service may not receive a loan from his or her TSP account.

§ 1655.3 Information concerning the cost of a loan.

Information concerning the cost of a loan is provided in the booklet TSP Loan Program (available on the TSP Web site, from the participant's personnel office or service, or from the TSP record keeper). From this information, a participant can determine the effects of a loan on his or her final account balance and can compare the cost of a loan to that of other sources of financing.

§ 1655.4 Number of loans.

A participant may have no more than two loans outstanding from his or her

TSP account at any time. Only one of the two outstanding loans may be a residential loan. A participant with both a civilian TSP account and a uniformed services TSP account may have two outstanding loans from each account.

§ 1655.5 Loan repayment period.

(a) *Minimum.* The minimum repayment period a participant may request for a loan is one year of scheduled payments.

(b) *Maximum.* The maximum repayment period a participant may request for a general purpose loan is five years of scheduled payments. The maximum repayment period a participant may request for a residential loan is 15 years of scheduled payments.

§ 1655.6 Amount of loan.

(a) *Minimum amount.* The initial principal amount of any loan may not be less than $1,000.

(b) *Maximum amount.* The principal amount of a new loan must be less than or equal to the smallest of the following:

(1) The portion of the participant's individual account balance that is attributable to employee contributions and attributable earnings (not including any outstanding loan principal);

(2) 50 percent of the participant's vested account balance (including any outstanding loan balance) or $10,000, whichever is greater, minus any outstanding loan balance; or

(3) $50,000 minus the participant's highest outstanding loan balance (if any) during the last 12 months.

(c) If a participant has both a civilian TSP account and a uniformed services TSP account, the maximum loan amount available will be based on a calculation that takes into consideration the account balances and outstanding loan balances for both accounts.

§ 1655.7 Interest rate.

(a) Except as provided in paragraph (b) of this section, loans will bear interest at the monthly G Fund interest rate established by the Department of the Treasury in effect on the date the TSP record keeper processes the paper application or on the date the request is entered on the TSP Web site.

(b) The interest rate calculated under this section remains fixed until the loan is repaid, unless a civilian participant informs the TSP record keeper that he or she entered into active duty military service, and, as a result, requests that the interest rate on a loan issued before entry into active duty military service be reduced to an annual rate of 6 percent for the period of such service. The civilian participant must provide the record keeper with the beginning and ending dates of active duty military service.

§ 1655.8 Quarterly statements.

Information relating to any outstanding loan will be included on the quarterly participant statements.

§ 1655.9 Effect of loans on individual account.

(a) The amount borrowed will be removed from the participant's account when the loan is disbursed. Consequently, these funds will no longer generate earnings.

(b) The loan principal will be disbursed from that portion of the account represented by employee contributions and attributable earnings, *pro rata* from each investment fund in which the account is invested and *pro rata* from tax-deferred and tax-exempt balances.

(c) Loan payments, including both principal and interest, will be credited to the participant's individual account. Loan payments will be credited to the appropriate investment fund in accordance with the participant's most recent contribution allocation.

§ 1655.10 Loan application process.

(a) Any participant may apply for a loan by submitting a completed loan application (Form TSP–20 or Form TSP–U–20) to the TSP record keeper.

(b) The following participants may also apply for and complete a loan request on the TSP Web site:

(1) FERS participants or members of the uniformed services requesting a general purpose loan if they are:

(i) Unmarried; or

(ii) Married and have been granted an exception to the spousal requirements described in § 1655.18.

(2) CSRS participants requesting a general purpose loan if they are:

(i) Unmarried;

(ii) Married and provide a current address for their spouse; or

(iii) Married and have been granted an exception to the spousal requirements described in § 1655.18.

(c) Persons not described in paragraph (b) of this section may use the TSP Web site to submit a loan application and obtain a loan agreement, but must complete the process by submitting the resulting loan agreement and any related documentation on paper.

§ 1655.11 Loan acceptance.

The TSP record keeper will reject a loan application if:

(a) The participant is not qualified to apply for a loan under § 1655.2 or has failed to provide all required information on the loan application;

(b) The participant has the maximum number of loans outstanding or, if the application is for a residential loan, the participant has a residential loan outstanding from the same account;

(c) The participant has a pending loan agreement or in-service withdrawal request;

(d) The amount of the requested loan is less than the minimum amount set forth in § 1655.6(a);

(e) A hold has been placed on the account pursuant to 5 CFR 1653.3(c); or

(f) The participant has received a taxable loan distribution from the TSP within the 12-consecutive-month period preceding the date of the application, unless the taxable distribution was the result of the participant's failure to repay the loan upon his or her separation from Government service.

§ 1655.12 Loan agreement.

(a) Upon determining that a loan application meets the requirements of this part, the TSP record keeper will provide the participant with the terms and conditions of the loan, as follows:

(1) If the participant submits a paper loan application, the TSP record keeper will mail the loan agreement (Form TSP–21–G, TSP–U–21–G, TSP–21–R, or TSP–U–21–R, as applicable), and other information as appropriate, to the participant.

(2) If the participant initiates a loan request on the TSP Web site, which cannot be completed on the Web site, the participant must print the partially completed loan agreement directly from the Web site, provide any missing information (including spouse's signature or documents supporting a residential loan request, if applicable), and submit it to the TSP record keeper.

(b) By signing the loan agreement, either electronically or on the form, the participant agrees to be bound by all of its terms and conditions, agrees to repay the loan by payroll deduction, and certifies, under penalty of perjury, to the truth and completeness of all statements made in the loan application and loan agreement to the best of his or her knowledge.

(c) For loans submitted on paper and those that cannot be completed on the TSP Web site, the TSP record keeper must receive the completed loan agreement (including any required supporting documentation) before the expiration date stated on the loan agreement or the agreement will not be processed.

(d) The signed loan agreement must be accompanied by:

(1) In the case of a residential loan, supporting materials that document the purchase or construction of the

residence and the amount requested (as described in § 1655.20); and

(2) Any other information that the Executive Director may require.

(e) A participant may request that the loan be disbursed by direct deposit to a checking or savings account maintained by the participant in a financial institution by properly completing the required information on the loan agreement or on the TSP Web site, if the loan request can be completed on the Web site.

§ 1655.13 Loan approval and issuance.

(a) When the completed loan agreement is signed electronically or returned by the participant to the TSP record keeper, together with any documentation required to be submitted, the loan will be initially approved or denied by the TSP record keeper based upon the requirements of this part, including the following conditions:

(1) The participant has signed the promise to repay the loan, has agreed to repay the loan through payroll deductions, and has certified that the information given is true and complete to the best of the participant's knowledge;

(2) Processing of the loan would not be prohibited by § 1655.19 relating to court orders;

(3) The spouse of a FERS or uniformed services participant has consented to the loan or, if the spouse's whereabouts are unknown or exceptional circumstances make it inappropriate to secure the spouse's consent, an exception to the spousal requirement described in § 1655.18 has been granted;

(4) The spouse of a CSRS participant has been given notice or, if the spouse's whereabouts are unknown, an exception to the spousal requirement described in § 1655.18 has been granted;

(5) When a paper agreement is required, the completed loan agreement, including all required supporting documentation, was received by the TSP record keeper before the expiration date specified on the loan agreement; and

(6) The participant has met any other conditions that the Executive Director may require.

(b) If approved, the loan will be issued unless:

(1) The participant's employing agency has reported the participant's separation from Government service;

(2) The TSP receives written notice that the participant has died;

(3) The participant's account balance on the loan issue date does not contain sufficient employee contributions and associated earnings to make a loan of at least $1,000;

(4) A hold on the account is processed before the loan is disbursed; or

(5) A taxable distribution on an outstanding loan is declared before the new loan is issued.

(c) If the loan is otherwise acceptable but the amount available to borrow is less than the requested amount (but is at least $1,000), the loan will be issued in the maximum amount available at the time of the disbursement. In such a case, the periodic payment amount will remain the same and the loan term may be shortened.

(d) The loan issue date is considered to be the date the loan was made.

(e) If a loan disbursement is returned as undeliverable, the TSP record keeper will attempt to locate the participant. If the participant does not respond within 60 days, the TSP will repay the loan with the returned loan proceeds.

§ 1655.14 Loan payments.

(a) Loan payments must be made through payroll deduction in accordance with the loan agreement. Once loan payments begin, the employing agency cannot terminate the payroll deductions at the employee's request, unless the TSP instructs it to do so. For example, employing agencies must stop loan payments if the participant becomes a debtor in a chapter 13 bankruptcy action, unless the bankruptcy court expressly permits the payments to continue.

(b) The participant may make additional payments by mailing a personal check or guaranteed funds to the TSP record keeper. If the TSP receives a payment that repays the outstanding loan amount and overpays the loan by $10.00 or more, the overpayment will be refunded to the participant. Overpayments of less than $10 will be applied to the participant's account and will not be refunded. If a loan overpayment refund is returned as undeliverable, the TSP record keeper will attempt to locate the participant. If the participant does not respond within 60 days, the TSP will forfeit the overpayment refund to the Plan. The participant can claim the forfeited funds, although they will not be credited with TSP investment fund returns.

(c) The initial payment on a loan is due on or before the 60th day following the loan issue date. Interest accrues on the loan from the date of issuance.

(d) Subsequent payments are due at regular intervals as prescribed in the loan agreement, or most recent amortization, according to the participant's pay cycle.

(e) If a payment is not made when due, the TSP will notify the participant of the missed payment and the participant must make up the payment in full. If the participant does not make up all missed payments by the end of the calendar quarter following the calendar quarter in which the first payment was missed, the TSP will declare the loan to be a taxable distribution in accordance with § 1655.15. The participant's make-up payment must be in the form of a personal check or guaranteed funds.

(f) Interest will accrue on all missed payments and will be included in the calculation of any taxable distribution subsequently declared in accordance with § 1655.15. Interest will also accrue on payments missed while a participant is in nonpay status.

§ 1655.15 Taxable distributions.

(a) The Board may declare any unpaid loan principal, plus unpaid interest, to be a taxable distribution from the Plan if:

(1) A participant is in a confirmed nonpay status for a period of one year or more, has not advised the TSP that he or she is serving on active military duty, and payments are not resumed after the participant is notified the loan has been reamortized;

(2) A participant separates from Government service and does not repay the outstanding loan principal and interest in full within the period specified by the notice to the participant from the TSP record keeper explaining the participant's repayment options;

(3) The TSP record keeper advises the participant that there are missing payments and the participant fails to make (by personal check or guaranteed funds) a direct payment of the entire missing amount or repayment in full by the deadline established in accordance with § 1655.14(e);

(4) Any material information provided in accordance with § 1655.10, § 1655.12, or § 1655.18 is found to be false;

(5) With the exception of a loan described in 5 CFR 1620.45, the loan is not repaid in full (including interest due) within five years, in the case of a general purpose loan, or within 15 years, in the case of a residential loan, from the loan issue date;

(6) The participant dies; or

(7) The participant's loan payments were stopped when he or she because a debtor in a chapter 13 bankruptcy action, and the bankruptcy court did not expressly permit the payments to recommence.

(b) If a taxable distribution occurs in accordance with paragraph (a) of this section, the Board will notify the

participant of the amount and date of the distribution. The Board will report the distribution to the Internal Revenue Service as income for the year in which it occurs. That portion of a loan that represents a uniformed services participant's contributions from pay subject to the combat zone tax exclusion will not be included in this calculation.

(c) If a participant dies and a taxable distribution occurs in accordance with paragraph (a) of this section, the Board will notify the participant's estate of the amount and date of the distribution. Neither the estate nor any other person, including a beneficiary, may repay the loan of a deceased participant, nor can the funds be returned to the TSP.

(d) If, because of Board or TSP record keeper error, a TSP loan is declared a taxable distribution under circumstances that make such a declaration inconsistent with this part, or inconsistent with other procedures established by the Board or TSP record keeper in connection with the TSP loan program, the taxable distribution will be reversed. The participant will be provided an opportunity to reinstate loan payments or repay in full the outstanding balance on the loan.

§ 1655.16 Reamortization.

(a) A participant may request reamortization of a loan at any time to change the amount of the payments, unless the loan is in a default status.

(b) Upon reamortization, the outstanding principal balance remains the same. Any accrued interest is paid off first before payments are applied to principal and current interest.

(c) The interest rate on a reamortized loan will be the same as the interest rate on the original loan.

(d) A participant may request reamortization by using the TSP Web site or by contacting a TSPSO participant service representative.

(e) When a participant's pay cycle changes for any reason, he or she should request a reamortization to adjust the scheduled payment to an equivalent amount in the new pay cycle. If the new pay cycle results in fewer payments per year and the participant does not reamortize the loan, the loan may be declared a taxable distribution pursuant to § 1655.15(a)(3).

§ 1655.17 Prepayment.

(a) A participant may repay a loan in full, without a penalty, at any time before the declaration of a taxable distribution under § 1655.15, unless the participant has separated from Government service and has submitted a signed statement that he or she has forfeited the right to repay the loan in full. Repayment in full means receipt by the TSP record keeper of a payment, by personal check or guaranteed funds made payable to the Thrift Savings Plan, of all principal and interest due on the loan.

(b) If a participant returns a loan check to the TSP record keeper, it will be treated as a repayment; however, additional interest may be owed, which, if not paid, could result in a taxable distribution. The loan, even though repaid, will also be taken into account in determining the maximum amount available for future loans, in accordance with § 1655.6(b).

(c) The amount outstanding on a loan can be obtained from the TSP Web site, the ThriftLine, or a TSPSO participant service representative, or by a written request to the TSP record keeper.

§ 1655.18 Spousal rights.

(a) *Spouse of CSRS participant.* (1) Before a loan is disbursed to a CSRS participant, the TSP record keeper will send a notice to the participant's current spouse that the participant has applied for a loan.

(2) A CSRS participant may obtain an exception to the requirement described in paragraph (a)(1) of this section if the participant establishes, to the satisfaction of the Executive Director, that the spouse's whereabouts are unknown as described in paragraph (c) of this section.

(b) *Spouse of FERS or uniformed services participant.* (1) Before a loan agreement is approved for a FERS or uniformed services participant, the spouse must consent to the loan by signing the loan agreement.

(2) A FERS or uniformed services participant may obtain an exception to the requirement described in paragraph (b)(1) of this section if the participant establishes, to the satisfaction of the Executive Director, that:

(i) The spouse's whereabouts are unknown; or

(ii) Exceptional circumstances prevent the participant from obtaining the spouse's consent.

(c) *Exception to spousal requirements.* The procedures for obtaining an exception to the spousal requirements described in paragraphs (a)(1) and (b)(1) of this section are the same as the procedures described in 5 CFR 1650.64 and 1650.65.

(d) *Certification of truthfulness.* (1) By signing the loan application and the loan agreement, electronically or on paper, the participant certifies, under penalty of perjury, that all information provided to the TSP during the loan process is true and complete, including statements concerning the participant's marital status, the spouse's address at the time the application is filed, or the current spouse's consent to the loan.

(2) If the Board receives a written allegation from the spouse that the participant may have misrepresented his or her marital status or the spouse's address (in the case of a CSRS participant), or that the signature of the spouse of a FERS participant was forged, the Board will submit the information or document in question to the spouse and request that he or she state in writing that the information is false or that the spouse's signature was forged. In the event of an alleged forgery, the Board will also request the spouse to provide at least three samples of his or her signature.

(3) If the spouse affirms the allegation, in accordance with the procedure set forth in paragraph (d)(2) of this section, and the loan has been disbursed, the Board will give the participant an opportunity to repay the unpaid loan principal and interest within 60 days. If the loan is repaid during this period, the Board will not investigate the spouse's allegation.

(4) Paragraph (d)(3) of this section will not apply if the participant has received a final divorce decree before the Thrift Savings Plan receives the funds.

(5) If the unpaid loan principal and interest are not repaid to the Plan in full within the time period provided in paragraph (d)(3) of this section, the Board will conduct an investigation into the allegation. If the participant has received a final divorce decree before the Thrift Savings Plan receives the funds, the Board will begin its investigation immediately.

(6) If, during its investigation, the Board finds evidence to suggest that the participant misrepresented his or her marital status or spouse's address (in the case of a CSRS participant), or submitted the loan agreement with a forged signature, the Board will refer the case to the Department of Justice for criminal prosecution and, if the participant is still employed, to the Inspector General or other appropriate authority in the participant's employing agency for administrative action.

(7) Upon receipt of an allegation described in paragraph (d)(2) of this section, the participant's account will be frozen and no loan will be permitted until after:

(i) Thirty (30) days have elapsed since the participant's spouse was sent a copy of the information or document in question, and the Board has received no written affirmation of the alleged false information or forgery (together with signature samples, if required);

(ii) The loan is repaid pursuant to paragraph (d)(3) of this section;

(iii) The Executive Director concludes that the Board's investigation did not yield persuasive evidence that supports the spouse's allegation;

(iv) The Executive Director has been assured in writing by the spouse that any future request for a loan or withdrawal comports with the applicable requirement of notice or consent; or

(v) The participant is divorced.

§ 1655.19 Effect of court order on loan.

Upon receipt of a document that purports to be a qualifying retirement benefits court order, qualifying legal process relating to a participant's legal obligation to provide child support or to make alimony payments, or a qualifying child abuse order, the participant's TSP account will be frozen. After the account is frozen, no loan will be allowed until the account is unfrozen. The Board's procedures for processing court orders and legal processes are explained in 5 CFR part 1653.

§ 1655.20 Residential loans.

(a) A residential loan will be made only for the purchase or construction of the primary residence of the participant, or for the participant and his or her spouse, and for related purchase costs. The participant must actually bear all or part of the cost of the purchase. If the participant purchases a primary residence with someone other than his or her spouse, only the portion of the purchase costs that is borne by the participant will be considered in making the loan. A residential loan will not be made for the purpose of paying off an existing mortgage or otherwise providing financing for a primary residence purchased more than 2 years before the date of the loan application.

(b) The participant's primary residence is his or her principal residence. A primary residence may include a house, a townhouse, a condominium, a share in a cooperative housing corporation, a mobile home, a boat, or a recreational vehicle; a primary residence does not include a second home or vacation home. A participant cannot have more than one primary residence.

(c) Purchase of a primary residence means acquisition of the residence through the exchange of cash or other property or through the total construction of a new residence. A residential loan will not be made for a lease-to-buy option, unless the option to buy is being exercised. Construction of an addition to or the renovation of a residence or the purchase of land only does not constitute the purchase of a primary residence.

(d) Related purchase costs are any costs that are incurred directly as a result of the purchase or construction of a residence and which can be added to the basis of the residence for Federal tax purposes. Points or loan origination fees charged for a loan, whether or not they are treated as part of the basis, are not considered a purchase cost. Real estate taxes cannot be included.

(e) The documentation required for a loan under this section is as follows:

(1) For all purchases, except for construction, a copy of a home purchase contract or a settlement sheet; or

(2) For construction, a home construction contract. If a single home construction contract is unavailable, other contracts, building permits, receipts, assessments, or other documentation that demonstrates the construction of an entire primary residence and expenses in the amount of the loan may be accepted at the discretion of the Executive Director.

(f) The documentation provided under this section must:

(1) Be from a third party;

(2) Show the participant as the purchaser or builder;

(3) Show the purchase price or construction price;

(4) Show the full address of the residence; and

(5) Bear a date that is no more than 24 months preceding the expiration date of the loan agreement.

■ 46. Part 1690 is revised to read as follows:

PART 1690—THRIFT SAVINGS PLAN

Subpart A—General

Sec.
1690.1 Definitions.

Subpart B—Miscellaneous

1690.11 Plan year.
1690.12 Power of attorney.
1690.13 Guardianship and conservatorship orders.

Authority: 5 U.S.C. 8474.

Subpart A—General

§ 1690.1 Definitions.

As used in this chapter:

Account or *individual account* means the account established for a participant in the Thrift Savings Plan under 5 U.S.C. 8439(a).

Account balance means the sum of the dollar balances for each source of contributions in each investment fund for an individual account. The dollar balance in each investment fund on a given day is the product of the total number of shares in that investment fund multiplied by the share price for the investment fund on that day.

Agency automatic (1%) contributions means any contributions made under 5 U.S.C. 8432(c)(1) and (c)(3).

Agency matching contributions means any contributions made under 5 U.S.C. 8432(c)(2).

Basic pay means basic pay as defined in 5 U.S.C. 8331(3). For CSRS and FERS employees, it is the rate of pay used in computing any amount the individual is otherwise required to contribute to the Civil Service Retirement and Disability Fund as a condition of participating in the Civil Service Retirement System or the Federal Employees' Retirement System, as the case may be. For members of the uniformed services, it is basic pay payable under 37 U.S.C. 204 and compensation received under 37 U.S.C. chapter 206.

Board means the Federal Retirement Thrift Investment Board established under 5 U.S.C. 8472.

C Fund means the Common Stock Index Investment Fund established under 5 U.S.C. 8438(b)(1)(C).

Catch-up contributions mean TSP contributions from taxable basic pay that are made by participants age 50 and over, which exceed either the elective deferral limit of 26 U.S.C. 402(g), or the maximum contribution percentage limit of 5 U.S.C. 8351(b) (for CSRS participants), 5 U.S.C. 8432(a) (for FERS participants), or 5 U.S.C. 8440f(a) (for all other participants).

Contribution allocation means the participant's apportionment of his or her future contributions, loan payments, and transfers or rollovers from eligible employer plans or traditional IRAs among the TSP investment funds.

Contribution election means a request by an employee to start contributing to the TSP, to change the amount of contributions made to the TSP each pay period, or to terminate contributions to the TSP.

Court of competent jurisdiction means the court of any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court as defined by 25 U.S.C. 1301(3).

CSRS means the Civil Service Retirement System established by 5 U.S.C. chapter 83, subchapter III, or any equivalent Federal retirement system.

CSRS employee or *CSRS participant* means any employee or participant covered by CSRS.

Date of appointment means the effective date of an employee's accession as established by the current employing agency.

Day means calendar day, unless otherwise stated.

Eligible employer plan means a plan qualified under I.R.C. section 401(a) (26 U.S.C. 401(a)), including a section 401(k) plan, profit-sharing plan, defined benefit plan, stock bonus plan, and money purchase plan; an annuity plan described in I.R.C. section 403(a) (26 U.S.C. 403(a)); an annuity contract described in I.R.C. section 403(b) (26 U.S.C. 403(b)); and an eligible deferred compensation plan described in I.R.C. section 457(b) (26 U.S.C. 457(b)) which is maintained by an eligible employer described in I.R.C. section 457(e)(1)(A) (26 U.S.C. 457(e)(1)(A)).

Employer contributions means agency automatic (1%) contributions under 5 U.S.C. 8432(c)(1) or 8432(c)(3), and agency matching contributions under 5 U.S.C. 8432(c)(2) or 5 U.S.C. 8440e(e).

Employing agency means the organization that employs an individual eligible to contribute to the TSP and that has authority to make personnel compensation decisions for the individual. It includes the uniformed services.

Executive Director means the Executive Director of the Federal Retirement Thrift Investment Board under 5 U.S.C. 8474.

F Fund means the Fixed Income Investment Fund established under 5 U.S.C. 8438(b)(1)(B).

FERS means the Federal Employees' Retirement System established by 5 U.S.C. chapter 84 or any equivalent Federal retirement system.

FERS employee or *FERS participant* means any employee or TSP participant covered by FERS.

FERSA means the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514. The provisions of FERSA that govern the TSP are codified primarily in subchapters III and VII of Chapter 84 of Title 5, United States Code.

Former spouse means (as defined at 5 U.S.C. 8401(12)) the former spouse of a TSP participant if the participant performed at least 18 months of civilian service creditable under 5 U.S.C. 8411 as an employee or member, and if the participant and former spouse were married to one another for at least nine months.

G Fund means the Government Securities Investment Fund established under 5 U.S.C. 8438(b)(1)(A).

G Fund interest rate means the interest rate computed under 5 U.S.C. 8438(e)(2).

I Fund means the International Stock Index Investment Fund established under 5 U.S.C. 8438(b)(1)(E).

In-service withdrawal request means a properly completed withdrawal election for either an age-based in-service withdrawal or a financial hardship in-service withdrawal, on any form required by the TSP, together with the supporting documentation required by the application.

Investment fund means any investment fund established pursuant to 5 U.S.C. 8438.

Open season means the period during which employees may elect to make contributions to the TSP, change the amount of contributions, or terminate contributions (without losing the right to resume contributions during the next open season).

Plan participant or *participant* means any person with an account in the Thrift Savings Plan or who would have an account but for an employing agency error.

Post-employment withdrawal request means a properly completed withdrawal election on any form required by the TSP in order for a participant to elect a post-employment withdrawal of his or her account balance.

Posting means the process of crediting or debiting transactions to an individual account.

Posting date means the date on which a transaction is credited or debited to a participant's account.

Regular employee contributions mean TSP contributions from taxable basic pay that are subject to the Internal Revenue Code limits on elective deferrals and contributions to qualified plans (26 U.S.C. 402(g) and 415(c), respectively), and the maximum contribution percentage limits of 5 U.S.C. 8351(b), 5 U.S.C. 8432(a), or 5 U.S.C. 8440f(a).

S Fund means the Small Capitalization Stock Index Investment Fund established under 5 U.S.C. 8438(b)(1)(D).

Separation from Government service means generally the cessation of employment with the Federal Government. For civilian employees it means termination of employment with the U.S. Postal Service or with any other employer from a position that is deemed to be Government employment for purposes of participating in the TSP, for 31 or more full calendar days. For uniformed services participants it means the discharge from active duty or the Ready Reserve or the transfer to inactive status or to a retired list as more fully described in 5 CFR 1604.2.

Share means a portion of an investment fund. Transactions are posted to accounts in shares at the share price of the date the transaction is posted. The number of shares for a transaction is calculated by dividing the dollar amount of the transaction by the share price of the appropriate date for the investment fund in question. The number of shares is computed to four decimal places.

Share price means the value of a share in an investment fund. The share price is calculated separately for each investment fund for each business day. The share price includes the cumulative net earnings or losses for each investment fund through the date the share price is calculated.

Source of contributions means regular employee contributions, agency automatic (1%) contributions, or agency matching contributions. All amounts in a participant's account are attributed to one of these three sources. (Catch-up contributions, transfers, rollovers, and loan payments are included in the regular employee contribution source.)

Spouse means the person to whom a TSP participant is married on the date he or she signs a form on which the TSP requests spousal information, including a spouse from whom the participant is legally separated, and a person with whom a participant is living in a relationship that constitutes a common law marriage in the jurisdiction in which they live. [Where a participant is seeking to reclaim an account that has been forfeited pursuant to 5 CFR 1650.16, spouse also means the person to whom the participant was married on the withdrawal deadline.]

Tax-deferred balance means employee or employer contributions that would otherwise be includible in gross income if paid directly to the participant and earnings on those contributions.

Tax-exempt balance means employee contributions that are made by uniformed services participants from pay subject to the combat zone tax exclusion. It does not include earnings on such contributions.

Thrift Savings Fund or *Fund* means the Fund described in 5 U.S.C. 8437.

Thrift Savings Plan, TSP, or *Plan* means the Thrift Savings Plan established under subchapters III and VII of the Federal Employees' Retirement System Act of 1986, 5 U.S.C. 8351 and 8401–8479.

Thrift Savings Plan Service Office or *TSPSO* means the office of the TSP record keeper, which provides service to participants. The TSPSO's address is: Thrift Savings Plan Service Office, National Finance Center, P.O. Box 61500, New Orleans, Louisiana 70161–1500.

ThriftLine means the automated voice response system by which TSP participants may, among other things,

access their accounts by telephone. The ThriftLine can be reached at (504) 255–8777.

Traditional IRA means an individual retirement account described in I.R.C. section 408(a) (26 U.S.C. 408(a)) and an individual retirement annuity described in I.R.C. section 408(b) (26 U.S.C. 408(b)) (other than an endowment contract).

TSP record keeper means the entity that is engaged by the Board to perform record keeping services for the Thrift Savings Plan. The TSP record keeper is the National Finance Center, Office of Finance and Management, United States Department of Agriculture, located in New Orleans, Louisiana.

TSP Web site means the Internet location maintained by the Board, which contains information about the TSP and by which TSP participants may, among other things, access their accounts by computer. The TSP Web site address is *www.tsp.gov.*

Uniformed services means the Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service, and the National Oceanic and Atmospheric Administration.

Vested account balance means that portion of an individual's account which is not subject to forfeiture under 5 U.S.C. 8432(g).

Subpart B—Miscellaneous

§ 1690.11 Plan year.

The Thrift Savings Plan's plan year is established on a calendar-year basis for all purposes, except where another applicable provision of law requires that a fiscal year or other basis be used. As used in this section, the term ''calendar-year basis'' means a twelve-month period beginning on January 1 and ending on December 31 of the same year.

§ 1690.12 Power of attorney.

This section applies to all regulations in this chapter that require a signature by the participant on a TSP form, where the participant desires to effect transactions through an agent (*i.e.*, an attorney-in-fact). Before an attorney-in-fact may sign a TSP form on behalf of a participant, the TSP must have approved either a general power of attorney which authorizes the attorney-in-fact to act on behalf of the participant with respect to the participant's personal property or in Federal Government retirement, financial, or business transactions, or a special power of attorney which authorizes the attorney-in-fact to effect transactions in the TSP on behalf of the participant. For the TSP to approve a power of attorney, it must be authenticated, attested, acknowledged, or certified by the principal before a notary public or other official authorized by law to administer oaths or affirmations. The TSP will advise the person submitting a power of attorney whether it is valid to effect transactions in the TSP.

§ 1690.13 Guardianship and conservatorship orders.

This section applies to all regulations in this chapter that require a signature by the participant on a TSP form, where the participant is legally unable to sign his or her name because of physical or mental incapacity. Before a guardian or conservator may sign a TSP form on behalf of such a participant, the Board must have approved a guardianship or conservatorship order issued by a court of competent jurisdiction, as defined in § 1690.1, which generally authorizes the guardian or conservator to manage the participant's estate, personal property, business or financial affairs, or retirement benefits, or which specifically authorizes the guardian or conservator to act on behalf of the participant to effect transactions in the TSP. For a guardianship or conservatorship order to be acceptable to affect TSP transactions, documentation must be submitted establishing that any bonding requirement or other preconditions specified in the court order have been satisfied. The Board will advise the guardian or conservator whether the order is valid to effect transactions in the TSP.

[FR Doc. 03–14647 Filed 6–12–03; 8:45 am]
BILLING CODE 6760–01–P

Federal Register

Friday,
June 13, 2003

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Prohibition Against Certain Flights Between the United States and Iraq; Final Rule; Removal

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. FAA–2003–15269 (Old Docket No. 26380); SFAR No. 61–2]

Prohibition Against Certain Flights Between the United States and Iraq

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; removal.

SUMMARY: This action removes Special Federal Aviation Regulation (SFAR) No. 61–2, which prohibits flight operations between the United States and Iraq, except under certain conditions. SFAR 61–2 is removed because the United Nations Security Council has lifted sanctions on Iraq and has encouraged all countries to participate in the reconstruction of that country, to include providing humanitarian flights. This final rule informs the public that the restrictions on flights between the United States and Iraq, which are contained in SFAR 61–2, are lifted.

This action does not remove the Iraq flight prohibition of SFAR 77, which affects certain operations by U.S. air carriers and commercial operators, by any person exercising the privileges of an airman certificate issued by the FAA except persons operating U.S.-registered aircraft for a foreign air carrier, or by an operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier. The flight prohibition under SFAR 77, which was imposed for safety reasons, remains in effect.

EFFECTIVE DATE: June 10, 2003.

FOR FURTHER INFORMATION CONTACT: David Catey, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Telephone: (202) 267–3732 or 267–8166.

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Documents

You can get an electronic copy of this final rule using the Internet through the FAA's web page at *http://www2.faa.gov/avr/arm/index.cfm*

You can get a paper copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Ave, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number of this rulemaking.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires the FAA to comply with small entity requests for information and advice about compliance statutes and regulations within the FAA's jurisdiction. Therefore, any small entity that has a question regarding this document may contact its local FAA official. Internet users can find additional information on SBREFA on the FAA's web page at *http://www.faa.gov/avr/arm/sbrefa.htm* and send electronic inquiries to the following Internet address: *9-AWA-SBREFA@faa.dot.gov.*

Background

On September 25, 1990, the United Nations Security Council adopted Resolution 670, which, among other things, mandated an embargo of air traffic with Iraq on the part of all member nations except to provide food and medical supplies in humanitarian circumstances or in support of the UN Military Observer Group. In support of this action, the United States issued Executive Orders 12722 and 12724, which prohibited certain transactions, including air transportation, between the United States and Iraq. In support of Resolution 670 and Executive Orders 12722 and 12724, the FAA adopted SFAR 61 on November 9, 1990. SFAR 61 prohibited the takeoff from, landing in, or overflight of the territory of the United States by an aircraft on a flight to or from the territory of the Iraq. SFAR 61 expired on November 9, 1991. SFAR 61–2 replaced SFAR 61, and has continued to support the ban on flights between the United States and Iraq throughout the recent hostilities.

On May 22, 2003, the United Nations Security Council by unanimous vote adopted Resolution 1483, which, among other things, lifted the sanctions imposed by Resolution 670, including the flight prohibitions described above. Because of the UN action, the FAA finds that the underlying legal basis for SFAR 61–2 has been removed. Accordingly, SFAR 61–2 should be terminated immediately.

This action does not remove the Iraq flight prohibition of SFAR 77, which affects certain operations by U.S. air carriers and commercial operators, by any person exercising the privileges of an airman certificate issued by the FAA except persons operating U.S.-registered aircraft for a foreign air carrier, or by an operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier. The flight prohibition under SFAR 77, which was imposed for safety reasons, remains in effect.

Immediate Adoption

On the basis of the above, I am ordering the removal of SFAR 61–2. Because this action lifts a prohibition on certain flight operations conducted by U.S. air carriers and commercial operators, and persons exercising the privileges under FAA issued certificates with limited exception, I find that notice and public comment under 5 U.S.C. 533(b) are unnecessary and contrary to the public interest. Further, I find that good cause exists under 5 U.S.C. 533(d) for making this rule effective immediately upon issuance.

List of Subjects in 14 CFR Part 91

Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Freight, Iraq.

The Amendment

■ For the reasons set forth above, the Federal Aviation Administration amends part 91 of Title 14 of the Code of Federal Regulations, by removing SFAR 61–2 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

SFAR 61–2 [Removed]

■ 2. Special Federal Aviation Regulation No. 61–2— Prohibition Against Certain Flights Between the United States and Iraq is removed.

Issued in Washington, DC, on June 10, 2003.

Marion C. Blakey,

Administrator.

[FR Doc. 03–14973 Filed 6–10–03; 3:44 pm]

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